



**GOVERNMENT OF KERALA**

**Abstract**

Environment Department- Kerala Biodiversity fund - Establishment, administration, Utilization and auditing - Orders issued.

**ENVIRONMENT (A) DEPARTMENT**

G.O.(Rt)No.7/2020/Envt

Dated, Thiruvananthapuram, 18-01-2020

Read: Letter No. A5/3146/2017/KSBB dated 10-04-2019 from the Chairman, Kerala State Biodiversity Board, Thiruvananthapuram.

**ORDER**

The Chairman, Kerala State Biodiversity Board as per the letter read above requested Government to issue the order for the establishment, administration, utilization and auditing of funds relating to Kerala Biodiversity Fund.

2) Government have examined the matter in detail and hereby issue the order for the establishment, administration, utilization and auditing of funds relating to Kerala Biodiversity Fund hereinafter called "The Fund", as detailed below.

3) This order is intended to enable the Board to access funds for biodiversity conservation, compensation, environment protection, eco restoration and documentation.

**4. Objective of the Fund**

The Fund is meant for conservation of biological diversity, fair and equitable sharing of the benefits arising out of the use of biological resources and associated knowledge and any other matter connected thereto.

**5. Sources of the Fund**

a) All fund received from the State Government by way of budgetary allocation under Section 31 of The Biological Diversity Act 2002, by way of grants or loans such sum of money as the State Government think fit for being utilized for the purposes of this Act;

b) Any grant or loan provided by the National Biodiversity Authority

c) Any benefit passed onto Kerala State Biodiversity Board as per benefit sharing agreements entered into by National Biodiversity Authority under section 21 of The Biological Diversity Act 2002 and Rule 20 of The Biological Diversity Rules 2004; Guidelines on Access to Biological Resources and Associated Traditional Knowledge 2014 or other guidelines issued by Ministry of Environment, Forest and Climate Change in

exercise of the powers conferred by Section 64 and section 18 (1) and section 21 (4) of the Biological Diversity Act 2002

d) Fees collected under sub-rule (1) of Rule 16 of the Kerala Biological Diversity Rules, 2008;

e) Cess or fees or royalties, or benefits accrued through benefit sharing agreements with persons referred to in Section 7 of Biological Diversity Act 2002 under section 24 of Act and Rule 16 (5) of Kerala Biological Diversity Rules 2008 and Regulation 2,3,4 of Guidelines on Access to Biological Resources and Associated Traditional Knowledge 2014 or any kind of charges imposed by the Government can also be included in the Fund;

f) Share as decided by the Government, directed to be paid to the Kerala Biodiversity Fund of any surcharge or levy or cess or fee or royalty or toll, or any kind of charges imposed by the Government, in respect of any activity impinging upon State Biodiversity such as river sand mining, quarrying, mining, real estate development, filling of wet lands and paddy fields for public purposes, change of land use pattern, industrial fisheries, industrial licenses, statutory fines, etc. and collected by Government Departments or statutory bodies;

g) Grants, financial assistance, contributions, loans or advances provided by the Central or State Governments or any other institution for Biodiversity conservation or related activities;

h) Donations, grants or sponsorship from the state or national level public sector or private sector undertakings or establishments, from International funding agencies including Non Governmental Organisations, foundations, donor agencies and assistance or grants from Foreign Governments, and individuals as decided upon by the Government;

i) Interest and other benefits accrued from the Fund; the amounts carried to the said fund, from year to year, out of the net profit / surplus of that year, subject to the provisions of the Act;

j) Any contribution as part of corporate social responsibility

k) Any sum received by the State Biodiversity Board from such other sources as decided upon by the State Government;

l) Any other sum authorized under the provisions of the Biological Diversity Act and the Rules.

**6. Operationalization of fund under benefit sharing should be through benefit sharing agreements:**

a) While entering into benefit sharing agreements under section 24 of Act and Rule 16 (5) of Kerala Biological Diversity Rules 2008, with persons referred to in Section 7 of Act the principles outlined in the Guidelines on Access to Biological Resources and Associated

Knowledge and Benefits Sharing Regulations, 2014 ( G.S.R. 287) dated the 29th October, 2010 issued by Ministry of Environment, Forest, and Climate Change in exercise of the powers conferred by section 64 read with sub-section (1) of section 18 and sub-section (4) of section 21 of The Biological Diversity Act, 2002 (18 of 2003), and in pursuance of the Nagoya Protocol on access to genetic resources and the fair and equitable sharing of benefits arising from their utilization to the Convention on Biological Diversity, and any other subsequent guidelines issued by Ministry of Environment, Forest and Climate Change will be followed.

b) Benefit sharing may be done in monetary and/ or non-monetary modes, as agreed to by the applicant and the Kerala State Biodiversity Board in consultation with the BMC/ Benefit claimer.

c) Monetary benefits options can include

- (i) Up-front payment;
- (ii) One-time payment;
- (iii) Milestone payments;
- (iv) Share of the royalties and benefits accrued;
- (v) Share of the license fees;
- (vi) Contribution to State or Local Biodiversity Funds;
- (vii) Funding for research and development in Kerala;
- (viii) Joint ventures with institutions and companies;
- (ix) Joint ownership of relevant intellectual property rights.

d) When a particular biological resource is of high economic value, the benefits sharing may include an upfront payment as decided by the Kerala State Biodiversity Board on a case by case basis.

e) Fees if levied by the BMC for accessing or collecting any biological resources for commercial purposes from areas falling within its territorial jurisdiction shall be in addition to the benefit sharing payable to the Board.

## **7. Maintenance of Registers and Records**

a) Every person other than a person referred to in subsection 2 of section 3 of the Act seeking approval of the Board for access to bio resources shall maintain such registers and records as prescribed by the Board.

b) The registers and records shall be kept in the establishment of the applicant and shall be produced on demand by any officer or authority under this Order for verification.

### **8. Furnishing of Return by the applicant**

a) Every applicant shall furnish to the Assessing Officer a return showing the sale proceeds of the previous financial year in the manner as prescribed by the Board as per Rule 16 of Kerala Biodiversity Rules, 2008

b) Annually a certificate of sales attested by a Chartered Accountant shall be obtained from the applicant.

### **9. Assessment of Benefit sharing**

a) The Member Secretary of the Kerala Biodiversity Board will be the Assessing Officer for this purpose.

b) On receipt of the return under section 7, the Assessing Officer shall, after making or causing to be made, such enquiry as he thinks fit and after satisfying himself that the particulars furnished in the return are correct, by order, grant approval subject to such terms and conditions as it may deem fit including measures for benefit sharing out of utilization of biological resources as per the Guidelines issued by Ministry of Environment, Forest and Climate Change from time to time.

### **10. Establishment of the Funds**

a) All fund received from the Government specified in sub clause (1) of clause 5 above, shall be deposited in Government Treasury in the Special Treasury Savings Bank Account of the Board in the name of the Kerala Biodiversity Fund.

b) Funds received from all sources specified in Subclause (ii) to (xii) of Clause 5 above, shall be deposited in the name of the Kerala Biodiversity Fund in a Nationalized Bank as approved by the Board;

c) The Kerala Biodiversity Fund shall have separate head of accounts for receipt from.-

(i) Central Government;

(ii) National Biodiversity Authority;

(iii) State Government, and other concerning the fee, royalty and such other receipts;

### **11. Administration of the Fund**

a) The fund constituted under the Act shall be administered in accordance with the provisions of the Act, the rules made thereunder and as per this order, by the Kerala State Biodiversity Board or any officer or officers of the Board, to whom specific power is delegated by the Board, under such conditions and with such financial limits for sanctioning of amounts from the fund.

b) The above accounts shall be operated in the name of the Member Secretary of the Board under his seal and signature or by such other officer of the Board as may be authorized by the Member Secretary with the approval of the Chairman/Chairperson.

c) Fund disbursement shall be entertained through instruments endorsed by Member Secretary and Chairman

d) Details of funds received, funds disbursed shall be maintained by the Member Secretary or any officer authorized by him

e) The Member Secretary or any officer authorized by him shall maintain a Register of Benefit Sharing, wherein the details of the Application, approval granted, benefit sharing component fixed and received and the sharing of benefits realised shall be entered.

f) The accounts and consolidated report shall be placed before the concerned auditing authority by the Member Secretary.

## 12. Utilization of Fund

a) Kerala Biodiversity Fund shall be utilized by Member Secretary with approval of Chairman and subsequent ratification by Board from time to time;

### b) Sharing of accrued benefits

i) The sharing of accrued benefits shall be, as per Guidelines on Access to Biological Resources and Associated Knowledge and Benefits Sharing Regulations, 2014 ( G.S.R. 287) dated the 29th October, 2010 issued by Ministry of Environment , Forest and Climate Change. The Kerala State Biodiversity Board shall retain a share, not exceeding 5% of the benefits accrued towards their administrative charges and the remaining share shall be passed onto the BMC concerned or to benefit claimers, where identified:

Provided that where any individual or group of individuals or organizations cannot be identified, such funds shall be used to support conservation and sustainable use of biological resources and to promote livelihoods of the local people from where the biological resources are accessed as specified under Regulation 15 (2) of Guidelines on Access to Biological Resources and Associated Knowledge and Benefits Sharing Regulations, 2014 and any other subsequent guidelines issued by Ministry of Environment ,Forest and Climate Change will be followed.

ii) When the biological resources are sourced from the jurisdiction of two or more BMCs, the total amount of the accrued benefits shall be shared among them in proportion as decided by the Board with due diligence.

iii) Where the biological resources of a product are sourced from the jurisdiction of two or more State Biodiversity Boards (SBBs), the total amount of the accrued benefits shall be shared among them in proportion as decided by the NBA / SBBs concerned, as the case may be as specified under Regulation 14 (4) of Guidelines on Access to Biological Resources and Associated Knowledge and Benefits Sharing Regulations, 2014

C) The Kerala Biodiversity Fund shall be utilized for the following activities:

- i) management and conservation of Biodiversity heritage sites;
- ii) compensation or rehabilitation of any section of the people economically affected by notification under sub-section (1) of section 37 of Act;
- iii) conservation and promotion of sustainable utilization of biological resources;
- iv) socio - economic development of areas from where such biological resources or knowledge associated thereto has been accessed subject to any order made under section 24, in consultation with the local bodies concerned;
- v) support an existing, or to start a new program or project in biodiversity conservation, including operational expenditure;
- vi) capital works on sites of local biodiversity conservation or enhancement may be considered provided the biodiversity value of the site is clearly demonstrated in the application and established in site verification;
- vii) to site management works that are part of a larger conservation management plan, or part of a larger scheme established for the benefit of the biological diversity of the State;
- viii) documentation, monitoring and for in situ and ex situ conservation of marine, fresh water and terrestrial species, indigenous varieties and breeds
- ix) documentation and monitoring of critical habitats and ecosystems and biodiversity rich areas/ community conserved areas
- x) inventorization, and cataloguing of biodiversity and monitoring the rate of depletion of biodiversity
- xi) conservation programs in public and also in private land;
- xii) ecorestoration of degraded ecosystems
- xiii) project or programme of the Kerala State Biodiversity Board or the Biodiversity Management Committees, except for the preparation of People's Biodiversity Registers
- xiv) implementation of state and local biodiversity strategies and action plans
- xv) funding of Governmental and Non Governmental organisations, and other research organizations for funding location specific research related to conservation, sustainable use and fair and equitable benefit sharing of biological diversity and traditional knowledge associated with biological resource.

- xvi) support to biological prospecting, value addition and biosurvey of bio resources.
- xvii) Capacity building of all stakeholders of biological resources on conservation, sustainable use and fair and equitable benefit sharing of biological diversity.
- xviii) Scouting and documentation (including digitization) and conservation of traditional knowledge.
- xix) Recognizing and rewarding major contributions including innovations in conservation and sustainable utilization of bioresources.
- xx) Any other innovative schemes/ programme /projects aimed for biodiversity conservation and sustainable use
- xxi) for meeting the expenses incurred for the purposes authorised by this Act
- xxii) all expenses of administration of the fund

### **13. Monitoring and Evaluation**

- a) Such activities funded as specified in Clause 8 (2) of this Order shall be monitored, evaluated and interventions made, as required, to meet its overall objectives.
- b) The Board shall constitute committee of experts, vested with the responsibility of monitoring the progress and the success of the project or programme for which Fund was provided, and the performance by each applicant on the obligations under the agreement executed.
- c) Applicants of all the projects supported by the Fund shall share the data and progress resulting from their activities with the Board and to ensure that progress is reported to the Board
- d) Monitoring by the expert committee shall be with the aim to identify changes and trends due to the impact of the project and whether the fund assistance is achieving the purpose as intended.
- (e) Monitoring process of the ongoing projects may be linked whenever applicable with a local monitoring system such as the Biodiversity Management Committees of the Grama Panchayats concerned, to the extent possible.

### **14. Audit of Accounts**

- a) Internal Auditing: The accounts of the Fund shall be audited annually by the auditors decided by the Board.

b) Statutory auditing entrusted to state audit department as per the decision of the Government.

### 15. Report regarding the working of the Fund

A report on the working of fund during the previous financial year as approved by the Board shall be submitted to the Government before the 30<sup>th</sup> day of September every year.

**16. Powers and functions of the Kerala State Biodiversity Board with regards to the fund** - without prejudice to the generality of the provisions of the Act and rule issued thereunder, the Kerala State Biodiversity Board with respect to administering the Fund may have the following powers and functions, namely:-

- a) to develop norms, guidelines and procedures for receipt, and disbursement from the Fund;
- b) to work out modalities of the schemes and programmes under the Fund and ensure effective monitoring and its implementation;
- c) to exercise powers with respect to administration, finance and budget matters related to the Fund;
- d) to process proposals for financial assistance and issue necessary sanctions and approval
- e) to sanction and arrange to disburse funds for the projects approved for financial assistance at the appropriate time and monitor or supervise such projects and expenditure incurred thereon and evaluate its performance.

(By order of the Governor)  
**DR.USHA TITUS**  
**PRINCIPAL SECRETARY**

To

✓ The Chairman, Kerala State Biodiversity Board, Thiruvananthapuram.  
The District Treasury Officer, Thiruvananthapuram.  
The Principal Accountant General (Audit/A&E), Kerala, Thiruvananthapuram.  
The Director, Information & Public Relations (Web & New Media) Department  
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**Section Officer**

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