

# Bill Summary

## The Biological Diversity (Amendment) Bill, 2021

- The Biological Diversity (Amendment) Bill, 2021 was introduced in Lok Sabha by the Minister of Environment, Forest and Climate Change Mr. Bhupender Yadav on December 16, 2021. The Bill amends the Biological Diversity Act, 2002. The Act provides for the conservation of biological diversity, sustainable use of its components, and fair and equitable sharing of the benefits arising out of the use of biological resources. The Bill seeks to streamline research and patent applications, encourage cultivation of wild medicinal plants, and practice of indigenous medicine. Key amendments proposed by the Bill include:
  - **Access to biological resources and intellectual property rights (IPR):** The Act provides for the National Biodiversity Authority (NBA) which regulates access to biological resources, and the sharing of research results on such resources. Biological resources include plants, animals, micro-organisms or their genetic material, with use or value for humanity (excludes human genetic material). Certain entities must seek approval from the NBA for obtaining biological resources, and before applying for IPR. These entities are: (i) non-citizens, (ii) non-resident citizens, (iii) organisations not registered in India, and (iv) organisations registered in India, with any non-Indian shareholding or management. The Bill amends the last category to any foreign-controlled company registered in India. The Bill also provides that these four categories of applicants must obtain NBA's approval before the grant of IPR (and not before applying for IPR).
  - Under the Act, State Biodiversity Boards (SBBs) are set up by state governments to advise them on conservation of biodiversity. Indian citizens and organisations registered in India must give prior intimation to the concerned SBB before obtaining any biological resource for commercial utilisation. They must also get NBA's approval before applying for IPR. The Bill amends this to provide that anyone who does not need approval from NBA to access biological resources must give prior intimation to the concerned SBB. Further, they must: (i) register with the NBA before the grant of IPR, and (ii) get prior approval of the NBA before commercialising the granted IPR.
  - **Exemptions:** Under the Act, certain communities are exempted from intimating the SBB before obtaining any biological resource for commercial utilisation. These are: (i) local people and communities of the area, and (ii) practitioners of indigenous medicine (vaid and hakims). The Bill extends the exemption to registered AYUSH (Ayurveda, Yoga and Naturopathy, Unani, Siddha and Homeopathy) practitioners, and cultivated medicinal plants and their products.
- **Composition of National Biodiversity Authority:** The Act provides for a 16-member National Biodiversity Authority. These include: (i) ten ex-officio members appointed by the central government, dealing with certain Ministries (on matters such as biotechnology, agriculture, environment and forests, Indian system of medicine, earth sciences), and (ii) five non-official members who are subject matter experts and representatives of industry and conservers. The Bill provides for 11 additional members in the Authority. These include: (i) six ex-officio members dealing with wildlife, forestry research, and Panchayati Raj, (ii) four representatives from State Biodiversity Boards (on a rotational basis), and (iii) a Member-Secretary (must have experience in biodiversity conservation). The Member-Secretary will be the chief coordinating officer of the NBA.
- **Threatened species:** The Act empowers the central government to notify any species which is near-extinction as a threatened species, in consultation with the concerned state government. The Bill allows the central government to delegate this power to the state government. However, before notifying any threatened species, the state government must consult the NBA.
- **Biodiversity Management Committee (BMC):** The Act mandates local bodies to constitute a BMC for promoting conservation of habitats, and documenting the conservation of specific plant varieties, animal breeds, and microorganisms. The Bill specifies that the state government will prescribe the composition of these BMCs, and they must have between seven to eleven members. Further, state governments may also constitute BMCs at the intermediate or district Panchayat level.
- **Offences:** The offences under the Act are cognizable and non-bailable. A cognizable offence is one for which a police officer may arrest an accused person without a warrant. The Bill deletes this provision.

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