



HOUSE OF REPRESENTATIVES

H. No. 9143

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AN ACT
INSTITUTIONALIZING THE NATIONAL POLICY ON ACCESS, AND
BENEFIT-SHARING FROM THE UTILIZATION OF PHILIPPINE
GENETIC RESOURCES AND APPROPRIATING FUNDS THEREFOR

1 Section 1. **Short Title.** – This Act shall be known as the "Philippine Genetic
2 Resources Access and Benefit-Sharing Act" or "PGRABS Act".
3

4 Sec. 2. **Declaration of Policy.** – It is the policy of the State to ensure the fair and
5 equitable sharing of benefits arising from the utilization of all genetic resources in the country
6 to generate wealth and alleviate poverty. Towards this end, the State shall secure the
7 necessary means to pursue the strategic programs and initiatives on the conservation and
8 sustainable use of biological diversity through the conduct of scientific research,
9 improvement of regulatory measures on access and utilization of genetic resources and
10 increasing awareness of their potential contribution to economic development and public
11 health. Moreover, the State shall ensure that local and indigenous communities receive a fair
12 share from the benefits arising from the utilization of genetic resources in their areas or
13 domains and provide the necessary support and incentive for investments for the conservation
14 and sustainable use of these genetic resources by the host communities.
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16 Sec. 3. **Scope.** – This Act shall apply to Philippine genetic resources, whether found
17 in or originating from Philippine territory and areas where the country enjoys sovereign rights
18 and jurisdiction, originating from the same or exported to other countries; and genetic
19 resources originating from other countries and imported into the Philippines for development
20 and utilization.
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22 Sec. 4. **Definition of Terms.** – As used in this Act:
23

- 24 a. *Access* refers to the collection, taking and gathering of genetic resources from
25 the field, in order that they may be utilized for further academic or scientific
26 research and bioprospecting; this also includes the conduct of field research,
27 interviews and surveys involving the indigenous knowledge systems and
28 practices including the associated traditional knowledge of indigenous and local
29 communities in the Philippines;
30
- 31 b. *Biopiracy* refers to the unethical or unlawful appropriation or commercial
32 exploitation of biological materials such as medicinal plant extracts that are
33 native to a particular country or territory without providing fair financial
34 compensation to the people of government of that country or territory;
35
- 36 c. *Bioprospecting* refers to the systematic search for biochemical and genetic
37 information in nature in order to develop commercially-valuable products for
38 pharmaceutical, agricultural, cosmetic and other applications;
39
- 40 d. *Biotechnology* refers to any technological application that uses biological
41 systems, living organisms, or derivatives thereof, to make or modify products or
42 processes for specific use;
43
- 44 e. *Clearing house* refers to the platform for exchanging information on access and
45 benefit-sharing established by the Nagoya Protocol on Access To Genetic
46 Resources And The Fair And Equitable Sharing of Benefits Arising From Their
47 Utilization To The Convention On Biological Diversity, hereinafter referred as
48 the Nagoya Protocol;
49

- 1 f. *Derivatives* refer to a naturally occurring biochemical compound resulting from
2 the genetic expression or metabolism of biological or genetic resources, even if
3 it does not contain functional units of heredity;
4
- 5 g. *Fair and equitable benefit-sharing* refers to the appropriate benefits that may be
6 derived by the Philippines as a country or its researchers, taking into account the
7 level of effort applied to secure the resources relevant to the country's current
8 socio-economic and cultural standing;
9
- 10 h. *Genetic material* refers to any material of plant, animal, microbial or other
11 origin containing functional units of heredity;
12
- 13 i. *Genetic resources* refer to genetic material as defined in item (h) hereof, except
14 genetic materials originating from humans;
15
- 16 j. *Utilization of genetic resources* refers to the conduct of research and
17 development activities on genetic and biochemical composition of genetic
18 resources, including the application of biotechnology as defined in Article 2 of
19 the United Nations Convention on Biodiversity.
20

21 **Sec. 5. Policy Framework on Access and Benefit-sharing from the Utilization of**
22 **Philippine Genetic Resources and Bioprospecting.** – The policy framework on access and
23 benefit-sharing from the utilization of genetic resources institutionalized in this Act
24 implements the Philippine commitment to the Nagoya Protocol and includes some key
25 changes in specific policy areas relating to access to genetic resources. It also incorporates
26 compliance mechanisms to ensure that similar legislation or policy relating to access and
27 benefit-sharing arising from the utilization of genetic resources from another country used in
28 the Philippines are respected and implemented. The tracking and monitoring mechanisms,
29 capacity-building and technology transfer as well as special mandates of identified
30 government agencies are also amended to fully implement the policy established in this Act.
31

32 **Sec. 6. Creation and Composition of the Inter-Agency Committee on Genetic**
33 **Resources and Associated Traditional Knowledge.** – There is hereby created an Inter-
34 Agency Committee on Genetic Resources and Associated Traditional Knowledge hereinafter
35 referred to as the Inter-Agency Committee, to harmonize, integrate, enhance, implement and
36 monitor compliance with treaty, statutory and regulatory provisions on access and benefit
37 sharing (ABS) and utilization of Philippine genetic resources.

38 The Inter-Agency Committee shall be headed by the Secretaries of the Department of
39 Environment and Natural Resources (DENR) and the Department of Agriculture (DA) as
40 Chairperson and Co-Chairperson, respectively. It shall be composed of the following offices:

- 41 A. Department of Environment and Natural Resources (DENR)
- 42 1. Biodiversity Management Bureau (BMB)
- 43 2. Ecosystems Research and Development Bureau (ERDB)
- 44 3. Palawan Council for Sustainable Development (PCSD)
- 45 B. Department of Agriculture (DA)

1 1. Bureau of Fisheries and Aquatic Resources (BFAR)

2 2. Bureau of Animal Industry (BAI)

3 3. Bureau of Plant Industry (BPI)

4 C. Department of Science and Technology (DOST)

5 1. Philippine Council for Health Research and Development (PCHRD)

6 2. Philippine Council for Agriculture, Aquatic and Natural Resources
7 Research and Development (PCAARRD)

8 D. Department of Health (DOH)

9 - Philippine Institute of Traditional and Alternative Health Care (PITAHC)

10 E. Department of Foreign Affairs (DFA)

11 F. Department of Justice (DOJ)

12 G. Department of the Interior and Local Government (DILG)

13 H. National Commission on Indigenous Peoples (NCIP)

14 I. Intellectual Property Office of the Philippines (IPOPHIL)

15 J. National Museum of the Philippines (NM)

16 K. University of the Philippines (UP) System

17 Each member Department of the Inter-Agency Committee shall designate a
18 permanent representative with the rank of Undersecretary or Assistant Secretary. Member
19 bureaus and offices shall be represented by their respective Directors and heads of office.

20 The Inter-Agency Committee shall be supported by a secretariat to be headed jointly
21 by the representatives of the BMB and ERDB.

22 **Sec. 7. Powers and Duties of the Inter-Agency Committee.** – The Inter-agency
23 Committee shall have the power to issue rules and guidelines pertaining to the access,
24 benefit-sharing and utilization of Philippine genetic resources, the grant of incentives under
25 existing laws, the third-party use in any mutually agreed terms or agreements relating to
26 access and benefit sharing involving genetic resources, and the standard procedures and
27 process flow of national checkpoint agencies, among others. It shall likewise be responsible
28 for the following:

- 29 a. Designation of a checkpoint or tracking mechanism to be set up by the pertinent
30 government agency at any stage of research, development, innovation, pre-
31 commercialization and commercialization of genetic resources and its derivatives;

- 1 b. Establishment of a Philippine Clearing House which shall serve as a platform for
2 sharing information related to access and benefit-sharing and shall provide access
3 to information made available by each party to the Nagoya Protocol relevant to
4 the implementation of the same;
- 5 c. Creation of appropriate sub-committees to handle specific concerns such as
6 inventory of genetic resources, ABS compliance, monitoring, wealth creation,
7 communication, capacity building and technology transfer;
- 8 d. Participation in the deliberations of civil society organizations, indigenous
9 peoples' organizations, private sector and members of the academe;
- 10 e. Conduct of analysis and monitoring activities on the latest technological
11 developments including digital sequencing information;
- 12 f. Establishment of a national inventory of genetic resources within one year from
13 the adoption of the implementing guidelines of this Act, prioritizing those with
14 potential commercial application;
- 15 g. Tracking and monitoring of the mechanism of biodiversity resources including
16 genetic or deoxyribonucleic acid (DNA) characterization of genetic resources and
17 other living organisms to enhance transparency of the same;
- 18 h. Strict application of the guidelines, processes, and protocols on the utilization of
19 traditional knowledge associated with genetic resources as well as applicable
20 customary laws and community protocols of indigenous peoples and local
21 communities, particularly in securing free prior and informed consent; and
- 22 i. Implementation of the appropriate capacity building programs in support of
23 existing and future policies for the development of a sound and viable
24 technological and scientific base for the access, benefit-sharing and utilization of
25 genetic resources.

26 **Sec. 8. Designation of National Focal Point and Competent National**
27 **Authorities.** –The Biodiversity Management Bureau (BMB) of DENR shall continue to be
28 the national focal authority on access and benefit sharing. The DENR, DA, NCIP and PCSO
29 are likewise designated competent national agencies for access and benefit-sharing and for
30 ensuring Philippine compliance with the obligations under the CBD and the Nagoya Protocol.

31 **Sec. 9. Coordination and Cooperation with Other National Government**
32 **Agencies.** – To ensure compliance with the rules or guidelines on access, benefit-sharing and
33 utilization of genetic resources, policy and administrative measures shall be adopted by the
34 national government agencies to notify the Philippine Clearing House. All national
35 government agencies with research and development functions relating to genetic resources
36 shall provide the Inter-Agency Committee with the relevant information on the status of
37 researches with potential commercial application and prioritize studies aimed at better

1 understanding genetic resources or in developing commercial products through
2 biotechnology or through other means.

3 **Sec. 10. Access to Information.** – Access to information collected by virtue of this
4 Act as well as to government research data used as basis for policy development shall be in
5 accordance with the source agency's Freedom of Information (FOI) manual prepared and
6 adopted in accordance with Executive Order No. 2, series of 2016.

7 **Sec. 11. Access to Genetic Resources.** – The existing policies on access to genetic
8 resources as currently implemented by the respective government agencies under Republic
9 Act 9147, otherwise known as the "Wildlife Resources Conservation and Protection Act"
10 shall continue to exist and be implemented for all purposes: *Provided*, That, to facilitate
11 harmonization of these policies with the Nagoya Protocol, any existing implementing
12 regulations of agencies for this purpose shall be amended and updated accordingly.
13

14 **Sec. 12. Matters Relating to the Utilization of Associated Traditional Knowledge**
15 **Associated with Genetic Resources.** – Whenever the indigenous knowledge systems and
16 practices including the traditional knowledge associated with genetic resources of indigenous
17 and local communities are utilized, the following shall be implemented by the appropriate
18 agencies, particularly the National Commission on Indigenous Peoples, the Palawan Council
19 for Sustainable Development as well as the Philippine Institute for Traditional and
20 Alternative Health Care:
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- 22 a. The customary laws as well as the community protocols of indigenous and local
23 communities, where available, will apply at the first instance, in matters relating
24 to access and benefit-sharing from the utilization of indigenous knowledge
25 systems and practices including the traditional knowledge associated with genetic
26 resources;
27
- 28 b. Mechanisms to inform users of their obligations as these relate to the utilization of
29 indigenous knowledge systems and practices, including traditional knowledge
30 associated with genetic resources, shall be established with the effective
31 participation of indigenous and local communities;
32
- 33 c. Processes and procedures shall be adopted for the development by indigenous and
34 local communities of their own community protocols, minimum requirements for
35 mutually agreed terms and model contractual clauses;
36
- 37 d. The customary use of indigenous knowledge systems and practices including
38 traditional knowledge associated with genetic resources by the indigenous and
39 local communities themselves shall continue to be respected: *Provided*, That this
40 principle shall not be recognized if asserted by non-indigenous and local
41 communities.
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43 **Sec. 13. Voluntary Benefit-Sharing Mechanisms.** – There shall be established a
44 voluntary benefit-sharing mechanism in cases where it is not possible to secure prior
45 informed consent and the researcher and the partner or collaborating institution will commit
46 to provide a minimum level of benefits that may be derived from the utilization of the genetic
47 resources and indigenous knowledge systems or practices, including the associated traditional
48 knowledge therein and as the utilization progresses from research, development, innovation,

1 pre-commercialization and commercialization. The concerned implementing agencies
2 mandated by this Act shall conduct the necessary consultations to determine the levels of
3 these benefits, which will be adjusted from time to time depending on the level of
4 advancement of researches in these activities.

5
6 **Sec. 14. Penalties.** – Except in relation to plant genetic resources for food and
7 agriculture covered under the provisions of the international treaty on plant genetic resources
8 for food and agriculture, including the Multilateral System of Access and Benefit-sharing and
9 its Standard Material Transfer Agreement (SMTA), specifically Articles 7 and 8 of the
10 SMTA, the user of genetic resources who does not comply with the provisions of this Act,
11 including any relevant administrative issuance that may be issued by the appropriate agencies
12 as provided for in this Act, shall be penalized with the crime of biopiracy and subject to a
13 penalty imprisonment of six (6) years and one (1) day up to eight (8) years, and a fine of
14 not less than Five hundred thousand pesos (Php 500,000) , as may be determined by the
15 appropriate court.

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17 **Sec. 15. Appropriations.** – All concerned government agencies included in the
18 Inter-Agency Committee shall allocate necessary funds for the implementation of this Act in
19 accordance with the regular government budget procedures, for the first year of
20 implementation of this Act. For the subsequent years, agencies in the Inter-Agency
21 Committee shall include in their respective programs funding for the implementation of this
22 Act which shall be included in the annual General Appropriations Act.

23 **Sec. 16. Implementing Rules and Regulations.** – Within One hundred eighty (180)
24 days from the effectivity of this Act, the DENR and the DA shall issue the rules and
25 regulations with the Department of Environment and Natural Resources as the lead
26 implementors of this Act.

27
28 **Sec. 17. Separability Clause.** – In case any provision of this Act is found to be
29 unconstitutional upon final declaration by the appropriate Court, the other provisions not so
30 declared unconstitutional or unaffected by the declaration shall remain valid and effective and
31 shall continue to be implemented by the Department of Environment and Natural Resources
32 and other relevant agencies.

33
34 **SEC. 18. Repealing Clause.** –All laws, proclamations, orders, rules and regulations
35 or parts thereof, which are inconsistent with the provisions of this Act are hereby repealed or
36 modified accordingly.

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38 **Sec. 19. Effectivity** –This Act shall take effect fifteen (15) days after its publication
39 in the *Official Gazette* or in a newspaper of general circulation.

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41 *Approved,*