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The following Ordinance passed by the Dewan Undangan Negeri on 17th November, 1997, and assented to by Tuan Yang Terutama Yang di-Pertua Negeri on 27th November, 1997, is hereby published pursuant to Article 26(3) of the Constitution of the State:

*Chapter No*

*Short Title*

Chapter 24  
Centre

...

Sarawak Biodiversity  
Ordinance, 1997



# LAWS OF SARAWAK

## Chapter 24

SARAWAK BIODIVERSITY CENTRE  
ORDINANCE, 1997

Date Passed by Dewan Undangan  
Negeri ... .. 17th November, 1997

Date of Assent ... .. 27th November, 1997

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SARAWAK BIODIVERSITY CENTRE  
ORDINANCE, 1997

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**LAWS OF SARAWAK**

**Chapter 24**

**SARAWAK BIODIVERSITY CENTRE  
ORDINANCE, 1997**

*An Ordinance to establish the Sarawak Biodiversity Centre and the Sarawak Biodiversity Council and for purposes incidental thereto.*

*[1st January, 1998]*

Enacted by the Legislature of Sarawak

**PART I**

**PRELIMINARY**

1. This Ordinance may be cited as the Sarawak Biodiversity Centre Ordinance, 1997, and shall come into force on the 1st day of January, 1998.

Short title and commencement

2. In this Ordinance-  
"biodiversity" means biological diversity, being the variability among living Organisms from all sources, including plant materials, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part, and the diversity within species, between species and ecosystem, and includes biological resources;

Interpretation

"Biodiversity Centre" means the Sarawak Biodiversity Centre established under section 5;

"biological resources" means genetic resources or materials of plant, animal or microbial origin or any other biotic components of eco

## SARAWAK BIODIVERSITY CENTRE

systems, with actual or potential use or value for humanity;

"Chairman" means the Chairman of the Council appointed under section 4, and includes any temporary Chairman so appointed;

"Chief Executive Officer" means the Chief Executive Officer of the Council appointed under section 7(1), and includes his Deputy or any person lawfully exercising the duties of the Chief Executive Officer

"Council" means the Sarawak Biodiversity Council established under section 3;

"Deputy Chairman" means the Deputy Chairman of the Council appointed under section 4, and includes any temporary Deputy Chairman so appointed;

"financial year" means a period of twelve months beginning on 1st January in any year~

"Government" means the Government of the State of Sarawak~

"Minister" means the Minister in the Government having responsibility for natural resources;

"premises" includes any building, store, shed, vehicle, vessel or structure, whether enclosed or otherwise.

## PART 11

THE SARAWAK BIODIVERSITY  
COUNCIL AND BIODIVERSITY CENTRE

**3.**-(1) There is hereby established in accordance with the provisions of this Ordinance a body corporate to be called the Sarawak Biodiversity Council.

Establishment  
of Sarawak  
Biodiversity  
Council

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## (2) The Council -

- (a) shall have perpetual succession,
- (b) shall have a common seal; and
- (c) may, subject to the provisions of this Ordinance

- (i) acquire, hold and dispose of property, both movable and immovable
- (ii) enter into contracts;
- (iii) sue and be sued in its corporate name and
- (iv) perform such other acts as bodies corporate may by law perform.

**4.-(1)** The Council shall consist of-

- (a) a Chairman;
- (b) a Deputy Chairman;
- (c) a Secretary; and
- (d) not less than six but not more than ten other members,

Constitution of  
the Council

all of whom shall be appointed by the Majlis Mesyuarat Kerajaan Negeri.

(2) Subject to the provision of this Ordinance, the members of the Council shall hold office for such term and subject to such conditions as the Majlis Mesyuarat Kerajaan Negeri may determine.

(3) The Majlis Mesyuarat Kerajaan Negeri may appoint any person to be temporary member of the Council during the temporary incapacity from illness or otherwise, or during the temporary absence from Malaysia, of any member of the Council.

(4) The Majlis Mesyuarat Kerajaan Negeri may appoint any member of the Council to be a temporary Chairman or temporary Deputy Chairman during the temporary incapacity from illness or



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otherwise, or during the temporary absence from Malaysia, of the Chairman or the Deputy Chairman, as the case may be.

(5) The Majlis Mesyuarat Kerajaan Negeri may, at any time, accept the resignation of any member of the Council.

(6) The Majlis Mesyuarat Kerajaan Negeri may, at any time, revoke the appointment of the Chairman, the Deputy Chairman, the Secretary and any other member of the Council.

(7) The Council may act notwithstanding any vacancy in its membership.

Sarawak  
Biodiversity  
Centre

**5.** The Council shall establish, manage and maintain a biodiversity centre to be named the Sarawak Biodiversity Centre for the purpose of -

(a) providing the Government and other institutions approved by the Government with accurate information or data on the status, magnitude, distribution, usage and value of the biodiversity in the State;

(b) the management and sustainable utilisation of the biodiversity of the State, including determining policies and guidelines for scientific research or experiment related to the use of biological resources of Sarawak for pharmaceutical, medicinal and other specific purposes;

(c) providing a centre for maintaining, updating and preserving records and databases for all biological resources of Sarawak;

(d) ensuring that all collections of biodiversity and related data are maintained for the purposes of inventory and study of the biodiversity of Sarawak;

## SARAWAK BIODIVERSITY CENTRE

(e) formulating programmes for systematic surveys of biodiversity and the collection and analysis of data relating thereto;

f) identifying the priorities for research on biodiversity, in order to enhance undertaking, conservation and sustainable utilisation of biodiversity, including ethnobotany, taxonomy and traditional uses~

(g) identifying new natural and biotechnological products derived from the biodiversity of the State;

(h) planning and initiating programmes for the utilisation, conservation, protection and sustainable development of biodiversity;

(i) establishing linkages with other institutions or bodies, within or outside Malaysia, with a view to enhancing the management, protection, preservation, research and utilisation of the **biodiversity of the State; and**

(j) generally to promote education and knowledge of the biodiversity of the State.

6. The Council shall have the following powers powers of the for the discharge of its functions and duties under this ordinance:

Powers of the Council

(a) to carry on all activities, the carrying on of which appears to the Council to be necessary, advantageous or convenient for or in connection with the discharge of its duties;

(b) to regulate the access, collection, study, and research, experiment, protection and utilisation of the

## SARAWAK BIODIVERSITY CENTRE

biodiversity of Sarawak including the removal of any of the biodiversity from the State;

(c) to promote the carrying on of any such activities by other bodies or persons or jointly with such other bodies or persons;

(d) to carry on such activities in association or collaboration or in joint venture with other bodies or persons including the departments or agencies of the Government or of the Government of Malaysia;

(e) with the approval of the Minister, to acquire, purchase, lease, take, hold and enjoy movable and immovable property of every description and sell, convey, assign, surrender and yield up, mortgage, demise, reassign, transfer or otherwise disposed of any movable or immovable property vested in the Council upon such terms as the Council thinks fit;

(f) to erect and maintain all necessary buildings for the purposes of the Biodiversity Centre;

(g) to manage the Biodiversity Centre or to appoint any person or body to manage the same on its behalf;

(h) to acquire, install and maintain exhibits for the Biodiversity Centre;

(i) to establish systems for maintaining and updating of databases of biodiversity in the Biodiversity Centre;

(j) to receive donations, grants, gifts of movable or immovable property from any source or to raise funds by any lawful means;

## SARAWAK BIODIVERSITY CENTE

(k) to regulate and control public access to the Biodiversity Centre or the exhibits or resources maintained therein, and to charge fees for such accc~s~

(l) to make provision for the specialised training of officers or employees of the Council and in that connection may offer scholarships to intending trainees or otherwise pay for the course of such training and all expenditure incidental thereto;

(m) to enter into contracts, establish trusts and generally to regulate transaction of all business connected with the Council; and

(n) to discharge such other functions as may be assigned to the Council by the Majlis Mesyuarat Kerajaan Negeri.

7.-(1) The Council may from time to time appoint and employ a Chief Executive Officer and such other officers and employees as may be necessary to assist the Council in carrying out its functions and duties and may, subject to terms and conditions determined by the Council under subsection (3), dismiss them:

Appointment  
of officers and  
employees

Provided that the approval of the Minister shall be obtained in respect of the appointment of the Chief Executive Officer of the Council.

(2) All officers and employees of the Council shall be under the administrative control of the Chief Executive Officer.

(3) The Council may, with the approval of the Minister, make standing orders to provide for the terms and conditions of service, including loans and allowances and the conduct and discipline of officers and employees of the Council.

## SARAWAK BIODIVERSITY CENTRE

8. All members, officers and employees of the Council shall be deemed to be public servants within the meaning of the Penal Code.

Members and officers of the Council deemed to be public servants Act 574

9.-(1) The Minister may give to the Council such directions, not inconsistent with the provisions of this Ordinance, as he thinks fit, as to the exercise and performance by the Council of its powers, duties and functions under this Ordinance, and the Council shall give effect to all such directions.

Directions of the Minister

(2) The Council shall furnish the Minister with such information with respect to its property and activities as he may from time to time require.

10.-(1) The Council may, in its discretion, appoint from among its own members or other persons who are not members of the Council one or more committees consisting of persons who may or may not be members of the Council for purposes which, in the opinion of the Council, would be better regulated and managed by means of such committees.

Appointment of committees and advisers

(2) The Council may appoint any person with the requisite experience, expertise and knowledge in biological or genetic resources, as adviser or consultant for the Council, and may form a Panel of Advisers or Consultants to advise the Council on the discharge of its functions or duties.

11.-(1) The Council may, subject to such conditions or restrictions as it thinks fit, delegate to any committee referred to in subsection ( 1 ) or the chairman thereof or any officer of the Council all or any of the powers, functions and duties vested in the Council by this Ordinance, (other than the power to delegate conferred by this section) and any power, function or duty so delegated may be exercised or performed by that committee or the chairman thereof or the officer in the name and on behalf of the Council.

Delegation of powers

## SARAWAK BIODIVERSITY CENTRE

(2) The Council may continue to exercise any power conferred upon it, or perform any function or duty under this Ordinance, notwithstanding the delegation of that power, function or duty under this section.

12.-(1) No action, suit, prosecution or proceedings shall be brought or instituted against any of the Council in respect of any act done bona *fide* in pursuance or execution or intended execution of this Ordinance.

Protection  
from Personal  
liability

(2) Where any member of the Council is exempt from liability by reason only of this section, the Council itself is liable only to the extent that it would be if that member of the Council were an employee or agent of the Council.

13. All deeds, documents or other instruments Execution requiring the seal of the Council shall be sealed with 'arnents. the common seal of the Council in the presence of the Chairman or the Deputy Chairman and the Chief Executive Officer, who shall sign every such deed, document or other instrument to which the common seal is affixed and their signing shall be sufficient evidence that the seal was duly and properly affixed and that it is the lawful seal of the Council.

Execution  
Documents

## PART III

## FINANCE AND ACCOUNTING PROCEDURE

14. For the purpose of enabling the Council to carry out its functions under this Ordinance, the Council may, from time to time, make grants to the Council of such sums of money as it may determine.

Grants to the  
Council

## SARAWAK BIODIVERSITY CENTRE

15. All moneys received or raised by the Council shall forthwith be paid into such banks or other financial institutions as may from time to time be decided by the Council to the credit of a fund to be called the Biodiversity Centre Fund (referred to in this Ordinance as "the Fund") which shall be controlled and administered by the Council, subject to the directions of the Minister.

Biodiversity  
Centre Fund

16. The moneys standing to the credit of the Fund shall be devoted solely to the following purposes:

Purposes of  
the Fund

(a) the payment of the expenses of, or connected with, the administration of the Council;

(b) the administration, management and operation of the Biodiversity Centre; and

(c) the payment of all expenses necessary for carrying out the purposes of this Ordinance.

17. The Majlis Mesyuarat Kerajaan Negeri may, by notification in the *Gazette*, vest in the Council any property as may be considered necessary to enable the Council to carry out its functions and duties under this Ordinance.

Vesting of  
property

18. The Council shall, as soon as possible after the close of each financial year, submit to the Majlis Mesyuarat Kerajaan Negeri an annual report on the activities of the Council during that financial year, and the Minister shall present a copy of the report to the Dewan Undangan Negeri.

Annual report

19.-(1) The Council shall keep proper accounts and other records of its own and shall prepare in respect of each financial year a statement of its accounts in a form approved by the Majlis Mesyuarat Kerajaan

Accounts of  
the Council

## SARAWAK BIODIVERSITY CENTRE

(2) The accounts of the Council shall be audited by a qualified auditor appointed annually by the Council with the approval of the State Financial Authority and the auditor shall make a report on the accounts examined by him.

Cap 15 (3) As soon as the accounts of the Council have been audited in accordance with subsection (2), a copy of the statement of accounts together with a copy of any report made by the auditor shall be submitted to the Majlis Mesyuarat Kerajaan Negeri, for its examination and approval, and thereafter the Minister shall present to the Dewan Undangan Negeri a copy of every such statement and report.

(4) The Statutory Bodies (Financial and Accounting Procedure) Ordinance, 1995, shall apply to the Council.

Annual Estimates 20. The Council shall obtain in advance the approval of the Minister for its annual estimates of expenditure and for any Supplementary estimates of its expenditure.

## PART IV

## LEGAL PROCUEdings, OFFENCES AND PINALTIES, ETC.

21. No person shall, without a permit issued by the Council and subject to such terms and conditions as may be stipulated in such permit -

Permit for collection, etc

(a) collect or take any plant or any part of a plant found on any State land, protected forest, forest reserve or communal forest:  
or

(b) collect any biological resources as may be specified by the Council by notification in the *Gazette*,

for the purpose of any scientific study or experiment or for medicinal or pharmaceutical research or development,



## SARAWAK BIODIVERSITY CENTRE

22. Any person who, without a permit issued by the Council under section 21 -

Penalty

(a) collects or takes away or removes from the State any plant or part of a plant found on any State land, protected forest, forest reserve or communal forest~ or

(b) collects or takes away or removes from the State any biological resources referred to in section 21(b),

for the purposes mentioned in that section shall be guilty of an offence: Penalty, a fine of twenty thousand ringgit or imprisonment for three years or both such fine and imprisonment.

23. No permit shall be issued by the Council except in accordance with rules made under section 35, and subject to the condition that the applicant enters into an agreement stipulating

Conditions for permit

(a) the terms and conditions for research into and the use of the biological resources; and

(b) the manner and mode of protection of any patent or intellectual property rights related to any invention or discovery made consequent upon such study or research,

and that the applicant deposits such sum or provides such bond as may be determined by the Council, to secure the due observance or compliance by the applicant of the terms and conditions of the permit, the agreement aforesaid and the provisions of this Ordinance.

## SARAWAK BIODIVERSITY CENTRE

**24.** No permit issued under section 23 shall be for a period of exceeding three years and shall stipulate the locality or area wherein collection, under the permit may be made, or from which biological resources may be removed, or for the taking away of such resources from Sarawak.

Duration of  
Permit

**25.** Any person who without the written authority from the Chief Executive Officer or a person duly authorized by him, takes away, removes from or makes use of any biological resource, exhibit, data, material or information kept, stored or maintained in the Biodiversity Centre shall be guilty of an offence: Penalty a fine of twenty thousand ringgit or imprisonment not more than three years or both such fine and imprisonment.

Unauthorized  
taking of  
exhibits, data  
or resources  
from  
Biodiversity  
Centre

**26.** The Chief Executive Officer, any police officer or customs officer or any other officer authorized in writing in that behalf by the Chief Executive Officer may without warrant enter any land or premises upon which any collection, study, research or experiment is being carried out on biological resources of the State with a view to ascertaining whether the provisions of this Ordinance or the conditions of any permit granted under this Ordinance are being complied with, and may make such investigation and inspection of the land or premises or the activities described above, and call any person to produce such materials, books, records, reports or other documents or things and to furnish any information as the Chief Executive Officer or such officer authorized by him or a police officer

Powers of  
entry and  
investigation

## SARAWAK BIODIVERSITY CENTRE

or customs officer may consider necessary for the purpose of conducting such investigation:

Provided that any person not in uniform purporting to exercise any powers under this section shall on demand produce his written authority to the owner or occupier of premises demanding the same.

**27,** The Chief Executive Officer, any police officer or customs officer or any other officer authorized to exercise the powers of entry or investigation under section 26 may, without warrant and with or without assistance, enter any land or premises if he considers it to be necessary if he has reason to believe that an offence under this Ordinance has been committed and may search any place and any person whom he reasonably believes to be concerned in the control or management or use of such land or premises, or to be an employee, servant or agent of the owner or occupier thereof:

Powers of  
search

Provided that no woman shall be searched under this section except by a woman.

**28.-(1)** The Chief Executive Officer, any police officer customs officer or any other officer authorized to exercise the powers of entry or investigation under section 26 may seize, remove and detain any goods, tool, equipment, document, material or any other thing which is used or employed in relation to any collection, study, research or experiment being carried out on biological resources of the State, which he reasonably believes to be or has been used, in the commission of an offence or to contain evidence relating to such an offence under this Ordinance.

Powers of  
seizure

(2) No claim or action shall lie against the Chief Executive Officer, police officer, customs officer or any other officer authorized in writing by the Chief Executive Officer in that behalf in respect of the seizure, removal or detention of any such

## SARAWAK BIODIVERSITY CENTRE

goods, tool, equipment, document, material or other thing under subsection (1).

(3) Any goods, tools, equipment, document, material or other thing seized, removed or detained under subsection (1) may be sold by the Chief Executive Officer by public auction or otherwise disposed of as the court may order, and the proceeds thereof shall, after being applied to cover the costs of such seizure, removal or detention and sale, be returned to the rightful owner.

Powers of  
arrest

**29.** – (1) The Chief Executive Officer or any other officer authorized to exercise the powers of entry or investigation under section 26 may arrest without warrant any person whom he reasonably suspects of committing or attempting to commit or aiding any person to commit any offence under this Ordinance and

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- (a) who refuses to furnish his name and address; or
- (b) who furnishes a name or address reasonably suspected of being false or who furnishes an address outside Malaysia; or
- (c) who is reasonably suspected of being likely to abscond.

Obstruction

**30.** Any person who obstructs the Chief Executive Officer, any police officer or customs officer or any other authorized officer lawfully exercising any powers conferred on him by or under this Ordinance shall be guilty of an offence: Penalty, a fine of five thousand ringgit or imprisonment for two years, or both such fine and imprisonment.

Liability of  
director, etc

**31.** Where an offence under this Ordinance has been committed by a body of persons, corporate or unincorporated, any person who at the time of the commission of such offense was a director, manager, secretary or other similar officer of the body of persons or who was purporting to act in such capacity shall be deemed to be guilty of that offence unless he proves that the offence was

## SARAWAK BIODIVERSITY CENTRE

committed without his consent or connivance, and that he exercised such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances.

**32.** Prosecution of an offence under this Ordinance may be conducted by-

Conduct or  
prosecution

(a) any State Legal Officer duly authorized by the State Attorney -General;

(b) the Chief Executive Officer; or

(c) any other officer duly authorized by the Chief Executive Officer after consultation with the State Attorney-General.

**33.** In regard to any suit, action or proceedings of a civil nature by or against the Council or any member thereof or any officer of the Council in his official capacity, the State Attorney-General, or a State Legal Officer duly authorized by him, or an Advocate appointed by the Council, may represent, appear and plead on behalf of the Council or its member or officer in any court having jurisdiction over such suit, action or proceedings.

Legal  
representation

**34.** The Chief Executive Officer or any other officer of the Council authorized in writing in that behalf by him may compound any offence under this Ordinance by accepting from the person reasonably suspected of having committed such offence a sum of money not exceeding one half of the fine stipulated for the offence.

Compounding  
of offences

## SARAWAK BIODIVERSITY CENTRE

## PART V

## REGULATIONS

**35.**-(1) The Majlis Mesyuarat Kerajaan Negeri may make regulations for or in respect of:

(a) the convening of meetings of the Council and the procedure to be followed:

(b) the payment of fees, honorarium, allowances and benefits to members of the Council, or advisers or consultants appointed under section 10(2);

(c) the management and Control of the Biodiversity Centre;

(d) the terms and conditions for access to and use of the biological resources of the State or such resources, data, exhibit, information or materials kept, stored or maintained in the Biodiversity Centre~

(e) permits to be issued under this Ordinance;

(f) the exercise of the Council's powers and functions under the provisions of this Ordinance; and

(g) such other purposes which may be considered to be necessary for carrying out the provisions of this Ordinance.

(2) All regulations made under this Ordinance

(a) may prescribe that any act or omission in contravention thereof is an offence; and

(b) may provide for the imposition of a penalty of a fine not exceeding five thousand ringgit or imprisonment

not exceeding one year or both such fine and imprisonment  
for such an offence.