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THE SARAWAK BIODIVERSITY CENTRE ORDINANCE, 1997

The Sarawak Biodiversity Regulations 2004

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THE SARAWAK BIODIVERSITY CENTRE ORDINANCE, 1997

THE SARAWAK BIODIVERSITY REGULATIONS, 2004

(Made under section 35(1))

In exercise of the powers conferred by section 35(1) of the Sarawak Biodiversity Centre Ordinance, 1997 [**Cap. 24**], the Majlis Mesyuarat Kerajaan Negeri has made the following Regulations:

PART I

PRELIMINARY

Citation and commencement

1. These Regulations may be cited as the **Sarawak Biodiversity Regulations, 2004**, and shall be deemed to have come into force on the 1st day of April, 2004.

Interpretation

2. In these Regulations

approved institution" means

(a) any school, college, university or educational institution in Sarawak registered under the Education Act 1996 [Act 5501];

(b) such other institution as the Minister may, by notification in the *Gazette*, approve;

"aquatic life" includes fish and any aquatic animals or plant life, sedentary or not, and all species of finfish, crustacea, mollusca, aquatic mammals, or their eggs or spawn, fry, fingerling, spat or young, and any marine or freshwater organisms, and the derivatives or parts thereof;

"biological resources" includes any extracts, whether in liquid or solid form, tissues, by-product or derivative or synthesized form thereof and where the context so admits, protected resources;

"Centre" means the Sarawak Biodiversity Centre established under the Ordinance;

"Chief Executive Officer" means the Chief Executive Officer of the Centre, and includes his Deputy or any person temporarily discharging the duties of his office;

"Controller" means the Controller of Wild Life or Controller of National Parks and Nature Reserves, as the case may be;

"Council" means the Sarawak Biodiversity Council established under the Ordinance;

"derivative", in relation to biological resources, includes their genetic and genomic form or materials;

"Director" means the Director of Forests or any person temporarily discharging the duties of that office;

"ethnobiology" means the knowledge or information pertaining to the uses by the natives of the State of biological resources for medicinal, **food, health or other purposes including** the classification, indigenous nomenclature, conservation techniques and general sociological importance of such biological resources to them;

"export", in relation to biological resources, means removing, shipping or taking away by any means the same out of the State for research or purposes relating to pharmaceutical or biotechnological developments;

"forest reserve" and "Protected forest" shall have the same meaning assigned to those expressions by the Forests Ordinance [**Cap. 126 (1958 Ed.)**];

"marine and aquatic areas" means any river, stream, reservoir, lake, pond, creek, estuary, and includes the territorial waters of the State;

"national park" or "nature reserve" refers to a national park or nature reserve respectively constituted under the National Parks and Nature Reserves Ordinance, 1998 [Cap. 271];

"natives" shall have the same meaning assigned to that expression **by the Interpretation Ordinance [Cap. 1 (1958 Ed.)**];

"Ordinance" means the Sarawak Biodiversity Centre Ordinance, 1997 [Cap. 24];

"permit holder" means any person issued with a permit under these Regulations, and includes any person employed or engaged by him to undertake or assist in undertaking the activities covered by the permit or his duly authorized agent or representative;

"protected resources" means those biological resources declared to be protected resources under section 21(l) of the Ordinance;

"research" means any form of study, analysis, evaluation, isolation, testing, experiment, examination or screening of biological resources to determine their potential medicinal, pharmaceutical, therapeutic, nutritional or agricultural properties or qualities, but does not include:

(a) any study, experiment, test or examination carried out within Sarawak, of biological resources in connection with any educational course or syllabus conducted by an approved institution which does not or is not intended to lead to the development and commercialization of their aforesaid properties, values or qualities; and

(b) any study or activities on biological resources undertaken by any Department of the Government of Sarawak or any statutory body incorporated under State law, in carrying out their respective functions or duties;

"research agreement" means an agreement as provided in regulation 21(l), to be entered between the Government of Sarawak and a permit holder pertaining to research on biological or protected resources;

"specimen", in relation to biological or protected resources, includes any sample, extract, part, derivative, components, representation or byproduct of any plant, insect or aquatic life;

"Wild Life Sanctuary" means a Wild Life Sanctuary constituted under the Wild Life Protection Ordinance, 1998 [Cap. 26].

PART 11

COLLECTION OF BIOLOGICAL RESOURCES

Collection of biological resources

3-(1) No person shall enter and collect or take away any biological resources from a State land forest, forest reserve, protected forest, national park, nature reserve or Wild Life Sanctuary without a permit issued by the Director or the Controller under the Forests Ordinance [Cap.126 (1958 *Ed.*)], the National Parks and Nature Reserve Ordinance, 1998 [Cap. 271 or the Wild Life Protection Ordinance, 1998 [Cap. 26], as the case may be.

(2) An application for such permit may be made to the appropriate officer in a form prescribed by him.

(3) A permit may be granted subject to or upon such terms and conditions as the Director or the Controller, as the case may be, may deem fit to impose.

Use of biological resources for research

4-(1) No permit shall be issued under regulation 3, for the collection of biological resources for research or for propagation to support such research unless-

(a) the Chief Executive Officer has been consulted, and he has no objection to the issue of such a permit;

(b) the permit holder signs a research agreement with the Government of Sarawak, acting through the Council; and

(c) the permit holder undertakes in writing not to remove the biological resources or any part or extract or specimen thereof from the State without an export permit granted by the Council.

(2) Where the Chief Executive Officer decides to object to such an application, he shall notify the Director or the Controller, as the case may be, who shall refer the objection to the Minister for direction, before deciding whether or not to issue the permit.

Application for permit to collect protected resources

5.-(1) An application for a permit required under section 21(2) of the Ordinance to collect or take away protected resources shall be made in a form to be prescribed by the Council.

(2) The applicant shall, in support of such application, furnish to the Council-

(a) a detailed collection plan and full particulars of any research scheme or objectives;

(b) a brief outline of his previous or current collection or research into biological or protected resources in Malaysia or elsewhere;

(c) full particulars of the collectors and researchers who are intended to be covered by the intended permit together with their technical expertise; and

(d) such other particulars as may be required by the Council.

Condition precedent

6.-(1) No permit shall be issued under regulation 5 until the applicant for such permit signs a research agreement with the Government as provided and described in regulation 21(1).

(2) Where it is intended to issue a permit for the collection of protected resources found or grown in a forest reserve, protected forest, national park, nature reserve or Wild Life Sanctuary, the Council shall first forward a copy of the application referred to in regulation 5, to the Director or Controller, as the case may be.

(3) If the Director or Controller, as the case may be, wishes to object to the application he shall, within seven days from the date of receipt of

the copy of the application, notify the Chief Executive Officer in writing of his objections together with the grounds thereof.

(4) Upon receipt of the notification and the grounds of objections, the Chief Executive Officer shall inform the Council of the objections, and in the event the Council shall decide not to sustain the objection, it shall refer the objection to the Minister for direction, before deciding whether or not to issue any permit to the applicant.

Form of permit

7.-(1) A permit to collect protected resources granted under this Part shall be in Form 1 of the Schedule, and may contain such terms and conditions as the Council may deem fit to impose.

(2) The permit shall stipulate

(a) the place or places where collection of protected resources may be undertaken;

(b) the species of protected resources that may be collected and the quantity thereof;

(c) if applicable, the times when such collection may take place;

(d) the places or premises where protected resources collected may be kept, stored or preserved, and

(e) the submission to the Centre within such period as the Chief Executive Officer shall determine, of at least one specimen of any protected resources collected pursuant to the permit.

Access to protected resources

8. Where the protected resources stipulated in the permit issued under regulation 7 is found in a forest reserve, protected forest, national park, nature reserve or Wild Life Sanctuary, the permit holder shall, upon production of the permit, be granted entry thereto.

Implied conditions

9. There shall be implied in each permit issued under regulation 7(1), the following conditions:

(a) the permit holder, when undertaking any collection, must, unless exempted by the Chief Executive Officer, at all times be accompanied by an officer, employee or agent of the Centre;

(b) the permit shall not be transferable;

(c) the permit shall be in the possession of the permit holder who shall, on demand by the Chief Executive Officer or any person authorized by him, produce the same for inspection;

(d) none of the protected resources collected shall be taken out of the State without a permit for the export thereof issued under this Part;

(e) if collection is undertaken within a Wild Life Sanctuary, national park, nature reserve, communal forest, forest reserve or protected forest, the permit holder shall comply with and observe all rules and regulations governing his entry into and activities in such Wild Life Sanctuary, national park, nature reserve, communal forest, forest reserve or protected forest; and

(f) the permit holder shall provide such security, as may be determined by the Council, for the due performance and compliance of the terms and conditions of the permit, or where applicable, also of the provision of the research agreement related to the issuance of the permit.

Prohibition against export

10. No person shall export for research purposes any biological resources or protected resources without a permit issued by the Council for the export thereof, in Form 2 of the Schedule.

Restriction on issue of permit for export

11.-(I) No permit shall be issued for the export of biological or protected resources under regulation 10 unless the Council is satisfied that-

(a) the biological or protected resources are required for the research of the nature or specialization that could not be undertaken or conducted within Sarawak;

(b) the applicant has not been in breach of any condition, express or implied in a permit issued for collection of biological or protected resources;

(c) the applicant intending to export the biological or protected resources undertakes in writing to submit promptly to the Centre all reports and data prepared or obtained from scientific research undertaken or conducted outside Sarawak;

(d) the institution, laboratory scientist or body undertaking or conducting such scientific research has either agreed to disclaim rights to intellectual property or patents in the event of any discovery or invention derived from the biological or protected resources exported

from the State, or enters into such undertaking or agreement with regard thereto as may be acceptable to the Council;

- (e) the biological or protected resources would be returned expeditiously to the Centre if not used for the purpose in regard to which the same was exported; and
 - (f) a research agreement as provided and described in regulation 21 has been signed between the Government and the applicant for the permit to export the biological or protected resources/
- (2) The permit issued under regulation 10 may relate to one or more species of biological or protected resources, and shall stipulate the quantity thereof that may be exported. The permit shall also specify the number of occasions or shipments that such resources may be exported.

Suspension or cancellation or permit

12. Any permit issued under regulation 7 or 10 may be suspended for such period as the Council may direct, or may be cancelled, if –
- (a) the permit holder breaches or contravenes any of the provisions of the Ordinance or these Regulations or any of the conditions of the permit; or
 - (b) the research agreement which relates to the permit has been terminated or rescinded; or
 - (c) there has been a breach or non-compliance with any undertaking which the permit holder is required to provide under these Regulations; or
 - (d) there is, in the Council's opinion, a need to protect, conserve or preserve the biological or protected resources which the permit holder is entitled to collect or export under the terms of the permit; or
 - (e) the permit holder has been adjudged a bankrupt or, has become insolvent; or
 - (f) he has transferred the permit or assigned the rights or benefits conferred thereunder, and for the purpose of this regulation, if the permit holder is a corporation, the permit shall be deemed to have been transferred if the majority share or interests therein have been transferred or disposed of.

Effect of cancellation

13. Where the permit is cancelled, the permit holder shall surrender the same to the Centre together with all biological or protected resources

in his possession and any report or data obtained by the permit holder in regard thereto, and any research agreement entered into between the permit holder and the Government shall be deemed to have been terminated.

PART III

COLLECTION OF BIOLOGICAL RESOURCES BY APPROVED INSTITUTION

Special procedure for collection of biological resources by approved institution

14.-(1) Any approved institution, desirous of taking any biological resources from any forest reserve, protected forest, national park, nature reserve or Wild Life Sanctuary for study, experiment, test, examination or other educational or teaching purposes, shall, at least seven days before the proposed date for the collection of the biological resources, submit a notification in such form as may be prescribed by the Director or Controller, as the case may be, stating the nature or type of biological resources that it requires to take, and from where, and the precise usage for the same, as well as the person or persons who will be responsible for taking the biological resources and who would be responsible for compliance with these Regulations.

(2) (a) If the Director or Controller has reasonable grounds to believe that the taking of such biological resources is for a purpose which is unrelated to the purpose of the approved institution or is for a purpose regulated by the Ordinance, or that the nature or type of biological resources should not be removed from the place where the same are found, grown, propagated, stored or kept, he may issue an order to stop the approved institution from taking any of the biological resources stipulated in the order.

(b) Any person who disobeys an order issued under subparagraph (a) shall be guilty of an offence: Penalty, a fine Of Dot exceeding five thousand ringgit.

(3) Nothing in this regulation shall authorize the collection or taking of any biological resources which has been declared as protected resources, without a permit issued under regulation 7.

Submission of report by approved institution

15. The approved institution shall, within fourteen days after the collection of the biological resources, submit a report to the Centre in such form as may be prescribed by the Council, to provide all information, data, specimen or parts of the biological or protected resources so taken, as may be required by the Council.

Publication of papers and reports

16.-(1) Any approved institution or any person studying in or employed by, such institution, if so authorized by that institution, may publish any article, commentary, report or thesis on any study, examination or test carried out on the biological or protected resources, provided that a copy of such article, commentary, report or thesis shall be furnished, free of charge within fourteen days of such publication to the Centre.

(2) The Centre may permit any person access to such article, commentary, report or thesis and to make copies thereof of any extract therefrom subject to such terms and conditions as may be imposed.

Council's rights to correct errors, etc.

17. The Council may, if it deems necessary, either-

(a) request any approved institution or person responsible for publication of any article, commentary, report or thesis published under regulation 16, to correct any error, mistake, omission or statement found therein; or

(b) issue any statement, article or commentary to clarify, dispute or rectify any error, mistake, omission or misstatement contained therein.

Approved institution's right to retain biological resources

18. Any approved institution may retain within its own premises solely for record or display any biological or protected resources taken pursuant to the provisions of this Part provided that the approved institution, if so required in writing by the Director or Controller, as the case may be, shall-

(a) submit to him, full details of all the biological or protected resources so retained by that institution; and

(b) send such of the said biological or protected resources to the Centre for any test, research, study, experiment or examination by the Centre or for display or exhibition at the Centre for such period as the Chief Executive Officer may determine.

Duty of the approved institution to notify Council on research

19.-(1) Any approved institution which is in possession of any biological or protected resources taken pursuant to this Part, shall notify the Council in writing, within thirty days, of the commencement of the usage of such biological or protected resources for any research into their biological, organic, genetic, ecological, taxonomical or other properties for development or leading to the development of medicinal, pharmaceutical, commercial or agricultural products or for medicinal, pharmaceutical, commercial or agricultural application.

(2) No approved institution shall permit any biological or protected resources taken pursuant to this Part, to be used by any other person for any of the purposes stated in paragraph (1).

(3) Any approved institution and any person having charge of such institution who contravenes the provisions of paragraph (1) or (2) shall be guilty of an offence: Penalty, a fine not exceeding thirty thousand ringgit or imprisonment not exceeding three years or both.

PART IV

RESEARCH

Places for research

20. All research on biological or protected resources shall be-

(a) carried out in accordance with the terms and conditions of a research agreement as provided and described in regulation 21; and

(b) undertaken in Sarawak, at such laboratory, institution, hospital or research centre as may be approved by the Council, or subject to regulation 22, at such place outside Sarawak, as may be approved in writing by the Council.

Research agreement

21.-(1) Before any permit may be granted under these Regulations for research on biological or protected resources, or ethnobiological research, a research agreement shall be entered into between the Government, in whom proprietary rights in such resources are vested, and the person or institution intending to carry out such research.

(2)) A research agreement shall contain such terms and conditions as may be determined by the Government on the recommendation and advice of the Council, and these terms and conditions shall include, but not limited to the followin-:

(a) the place or institution in Sarawak or outside Sarawak where such research is to be carried out,

(b) access by the Council, on behalf of the Government, to any reports, data, studies or results of the research undertaken;

(c) rights of the Government to patents and intellectual property to or over any discovery resulting from the research undertaken, and where appropriate, the sharing of such rights with other parties to the research agreement;

(d) the rights of the Government to license any patent or intellectual property referred to in subparagraph (c) and the entitlement to benefits derived therefrom;

(e) confidentiality over any reports, data, studies or results obtained from or generated from such research;

programmes or arrangements for the transfer of technology, skills and knowledge derived from any research covered by such agreement, including the training of scientists from the State, and their participation in such research;

(g) ownership of data and results accruing from research on or study of the biological or protected resources; and

(h) such other terms and conditions as may be agreed between the Government and the person, institution or body proposing to carry out the research.

Research outside Sarawak

22.- (1) No research on biological or protected resources shall be undertaken outside Sarawak unless the Council is satisfied that the nature or specialization thereof requires such research to be carried out or conducted in a place outside Sarawak.

(2) Where the Council is so satisfied under paragraph (1), an export permit under regulation 10 may be issued if the conditions in regulation 11 for the issue thereof are fulfilled.

Research reports, etc.

23. Subject to any direction issued by the Chief Executive Officer, any laboratory, institution, hospital, research centre or body undertaking any research on biological or protected resources shall--

(a) furnish to the Centre at such intervals as may be determined by the Chief Executive Officer, reports of all data, findings, results or other information obtained or derived from such research: Provided that the Chief Executive Officer may permit such reports to be submitted in a summary or abridged form;

(b) allow any scientist as may be nominated by the Chief Executive Officer, to participate in the research;

(c) make available, free of charge, to the Centre, all papers, presentations, essays or findings pertaining to the research on the biological or protected resources

(d) ensure all scientists or persons involved in the research shall undertake to comply with the provisions of any research agreement governing rights to patents and intellectual properties arising from the research;

(e) allow the Chief Executive Officer or any person authorized by him to have access at all reasonable times to the laboratory, institution, hospital, research centre or body and any records or data kept thereat pertaining to the research on biological or protected resources undertaken therein; and

(f) not publish or disseminate information or data derived from any research, without the approval of the Chief Executive Officer, which approval shall not be unreasonably withheld.

Rights over discoveries

24.-(1) Where research leads to the discovery of any compound, chemical or curative agent, molecule or product which has pharmaceutical, medicinal, therapeutic, nutritional or agricultural, commercial or economic value, properties or potential, the person or body undertaking the research shall notify the Chief Executive Officer, and an application for patent or copyright or intellectual property rights in regard to the discovery shall be made in accordance with the terms of the research agreement.

(2) No application for patent or copyright or intellectual property rights in respect of any discovery referred to in paragraph (1) shall be made without the consent in writing of the Chief Executive Officer.

(3) In the event of any breach of paragraph (1) or (2), the Council may apply to any court of competent jurisdiction for, *inter alia*, injunctive reliefs to restrain any application for patent or copyright or intellectual property rights or the registration thereof or the use of any discovery referred to in paragraph (1).

Use of discovery

25. Where any discovery has been patented or copyright in respect thereof has been registered, the use thereof shall be regulated by the Council, and shall be subject to payment of such royalty, fees, or other considerations as may be determined by the Council: Provided that where the use of such discovery is already subject to the terms and conditions contained in the research agreement, the Council shall not impose conditions regarding the use of the discovery which are contrary to the terms and conditions thereof.

PART V

PROPAGATION OF PROTECTED RESOURCES

Offences for propagation, etc., of protected species

26.-(1) Any person who-

- (a) undertakes any form of research into;
- (b) germinates, propagates, breeds or cultivates,

any protected resources must obtain prior written approval of the Council.

(2) Any person who contravenes paragraph (1) shall be guilty of an offence: Penalty, a fine not exceeding twenty thousand ringgit or imprisonment for three years or both, and in the case of a continuing offence, an additional fine of one thousand ringgit for each day the offence continues.

Site for propagation of protected resources

27.-(1) The propagation, breeding or cultivation of any protected resources shall be on such site or premises as may be approved by the Council: Provided that the Council shall not approve any site or premises outside Sarawak, unless it is satisfied that for technical or scientific reasons, there is no suitable site or premises or available facilities or technical know-how in Sarawak for such purpose.

(2) The Chief Executive Officer or any person authorized by him may at all reasonable times enter any site or premises used for the propagation, breeding or cultivation of any protected resources, for the purpose of ensuring that the activities conducted therein comply with the terms and conditions of the approval granted under regulation 26(1).

(3) The owner or proprietor of the site or premises referred to in paragraph (1) shall submit to the Chief Executive Officer a true and accurate record of the protected resources propagated, bred or cultivated therein twice annually, that is, on or before the 30th June and 31st December of each calendar year.

Sale of protected resources

28. No sale of any protected resources shall be permitted except in accordance with a permit issued by the Council. Such a permit shall be in Form 3 of the Schedule and shall be subject to such terms and conditions as the Council may impose.

PART VI

ETHNOBIOLOGY

Ethnobiological research

29.-(1) No person shall undertake ethnobiological research except with a permit issued by the Council.

(2) For the purpose of this Part, "ethnobiological research" means the search or study, based upon ethnobiology, on traditional medicinal materials with potential constituents from which new curative agents or compound may be created or found for modern pharmaceutical, biotechnological or other commercial development.

Application for permit

30.-(1) Application for a permit under this Part shall be made in such form as may be prescribed by the Chief Executive Officer, and submitted to the Council with particulars concerning the experience and expertise of the applicant in undertaking such research.

(2) The permit shall be in Form 4 of the Schedule and shall stipulate the area where the ethnobiological research may be undertaken, together with the types of biological or protected resources which form the subject matter of the research.

Conditions precedent of permit

31. The permit holder shall sign a research agreement with the Government as provided and described in regulation 21, as a condition precedent for the issue of the permit.

Incentive and protection to indigenous people

32.-(1) The permit holder may be required by the Council to make payments to the natives as rewards for the knowledge or information provided by them in connection with the ethnobiological research undertaken under the permit. Such payment may be made to the natives regardless of whether such ethnobiological research results in the commercial development of any medicinal or other products.

(2) Where ethnobiological research, based upon knowledge or information supplied by the natives or their traditional practices or the use or application of biological or protected resources, leads to the development of any pharmaceutical or medicinal compound or any health or nutritional product, the patent or intellectual property right to such compound or product, shall be shared with the natives who supplied the knowledge or information

relating to the said practices, application or use of biological or protected resources, to such extent as may be determined by the Council in consultation with the natives concerned.

Submission of reports

33. All reports or data compiled by the permit holder under this Part shall be transmitted to the Centre at such periodical intervals as may be determined by the Chief Executive Officer.

PART VII

INVENTORY AND DEPOSITORY

Inventory and depository

34. The Centre shall maintain

- (a) an inventory, in such form or manner as may be determined by the Council, of
 - (i) all samples of biological or protected resources, collected, or extracts produced or derived therefrom, pursuant to permits issued under these Regulations;
 - (ii) all samples of biological or protected resources collected by officers of the Council for research purposes;
 - (iii) all species of animals, plants, insects, and aquatic life, protected under section 21 of the Ordinance;
 - (iv) all extracts, specimens or derivatives (whether by synthesis process or otherwise) of biological or protected resources which have been or are subject of any research, whether on-going or otherwise;
 - (v) reports, data and results of all biological or protected resources which have been or are subject of any research, whether on-going or otherwise;
 - (vi) books, periodicals, journals, articles or essays concerning any biological or protected resources referred to in subparagraphs (i), (ii), (iii), (iv) and (v);
 - (vii) a list of all permits and research agreements issued or executed pursuant to these Regulations and all places or premises where species of animals, plants, insects and aquatic life declared as protected resources under section 21 of the Ordinance can be propagated, cultivated, breed or reared under Part V; and

(viii) such other records, data or information which the Centre is directed by the Council to maintain in the performance of its duties and functions under the Ordinance;

(b) a depository, for the display, exhibition, storage, protection, safe keeping or preservation of -

(i) all or any of the biological or protected resources referred to in paragraph (a) (i) to (iv) including pictorial or other forms of representations or replicas thereof;

(ii) all or any of the reports, data, books, periodicals, journals, articles and essays referred to in paragraph (a) (v) to (viii).

Access to inventory materials

35.-(1) No person shall have access to any materials in the inventory maintained under regulation 34(a), or to obtain any extracts or make any copies thereof, without the approval of the Chief Executive Officer: Provided always that such approval shall not be unreasonably withheld.

(2) Such approval may be given upon such terms and conditions as the Chief Executive Officer may impose and upon payment of such fees as may be prescribed by the Council.

(3) For the purpose of this regulation, access includes any form of linkage with the Centre by way of any computerized or information technology system which allows a person to obtain any information, data or materials kept by the Council in the inventory.

Admission to depository

36. No person other than a member of the Council or a staff of the Centre shall be admitted to the depository without the permission of the Chief Executive Officer who may impose such fees for admission as may be approved by the Council.

Supply of materials from the depository

37.-(1) The Chief Executive Officer may, with the approval of the Council and subject to paragraphs (2) and (3), supply any biological or protected resources, or any sample or extracts or specimen thereof, to any person, who satisfies the conditions set forth in regulations 3(1) and 5, for the purposes of research or pharmaceutical development or any other purposes as may be approved by the Council.

(2) Where any biological or protected resources, sample, extracts or specimen referred to in paragraph (1) is required for research purpose, the supply thereof shall not be permitted until a research agreement is entered

into between the Government and the person desirous of having tile same: Provided that the Council may, if it deems fit, exempt any person from compliance with the provisions thereof.

(3) The supply of any materials referred to in paragraph (1) shall be subject to payment of such fees as may be prescribed by the Council.

Extract not to be exported

38. No materials supplied pursuant to regulation 370) may be exported without a permit issued by the Council for the export thereof.

Data to be reported to the Centre

39. The results and data obtained from any research undertaken on any of the materials supplied under regulation 37(1) shall be reported to the Centre at such periodical intervals as may be stipulated by the Chief Executive Officer.

Restrictions on copyrights, patents or intellectual property rights

40.-(1) No person shall claim or be entitled to any copyrights, patents or intellectual property rights over any discovery derived from the use of any materials supplied by the Centre under this Part, except in accordance with the terms and conditions of a research agreement applicable to the research leading to such discovery.

(2) Any application for patents, copyrights or intellectual property rights pertaining to such discovery shall be made only with the consent of the Chief Executive Officer.

(3) Where there has been a breach of the provisions of paragraph (2), the Council may apply to a court of competent jurisdiction for, *inter alia*, injunction relief to restrain the application for patents, copyrights or intellectual property rights or the registration thereof or the use of the discovery.

PART VIII

MISCELLANEOUS

General provisions on permit

41.-(1) All permits required under these Regulations shall be issued at the discretion of the Council and shall be for such period as may be determined by the Council.

(2) The period of such permits may be extended at the sole discretion of the Council.

(3) Upon expiration, suspension or cancellation of a permit, the original thereof shall be surrendered to the Chief Executive Officer.

Exemption

42. Nothing in these Regulations shall affect, vary, nullify or render invalid

(a) any subsisting or existing agreement entered into by the Government or any of its agencies with regard to collection or research on biological or protected resources or the development of any pharmaceutical, medicinal, therapeutic, nutritional, agricultural products derived from compounds or agents extracted from any biological or protected resources of the State;

(b) any prior consent, approval or permission given by the Government for the collection of biological or protected resources of the State:

Provided that the Council may require a person who has been previously granted consent, approval or permission to collect biological or protected resources for research to apply for a permit to undertake the same under these Regulations.

Waiver

43-(1) These Regulations shall not, unless otherwise determined by the Council and subject to paragraph (2), apply to public officers serving in the Department of Forests, Sarawak, or the Department of Agriculture, Sarawak, or the Department of Health, Sarawak or any person engaged or appointed by any of the said Departments to undertake or assist in the undertaking of any research, study, experiment, test or examination on biological or protected resources in the course of discharging the functions and duties of that Department: Provided that two copies of the result made or published in consequence of any such research, study, experiment, test or examination shall be furnished free of charge to the Centre for its official use and custody.

(2) The Council may require any public officer to disclaim and waive all rights, of whatever nature, to any discovery or invention which may result from their research or other activity pertaining to any biological or protected resources of the State.

Fees

44. The Council, may by notification in the Gazette prescribe fees to be payable under these Regulations.

Delegation

45. The Chief Executive Officer may, with the approval of the Council, delegate to any other officer of the Centre such powers, duties or functions assigned to him by these Regulations.

Offence

46. Any person who contravenes any of the provisions of these Regulations shall be guilty of an offence and shall, if no penalty is expressly provided for the offence in the Ordinance or under these Regulations, be liable to a fine of not exceeding five thousand ringgit or imprisonment for one year or to both.

Schedule

47. The Forms prescribed in the Schedule may be used with such modifications or variations as the circumstances may require.

Revocation and saving

48.-(1) The Sarawak Biodiversity (Access, Collection and Research) Regulations, 1998 [Swk. *L.N.* 121/981] are revoked.

(2) Nothing in these Regulations shall affect the past operation of, or anything done under, the Regulations repealed under paragraph (1) and any permit issued or agreement made under such repealed Regulations shall continue to be in force and have full effect until the expiry or termination thereof.

SCHEDULE

FORM I

(Regulation 7)

PERMIT TO COLLECT PROTECTED RESOURCES

This is to certify that (name)

of (address)

is authorized to collect the following protected resources from the area(s) specified below, for the purposes of research/commercial purposes*, upon terms and conditions stated below:

Table with 3 columns: Type of Protected Resources, Area(s) Where Collection is Permitted, Quantity. Includes sub-headers for Scientific Name and Local Name.

Terms and Conditions:

- 1. This Permit is valid for a period of effective from the date of issue hereof.
2. This Permit is not transferable. The holder Must produce this Permit for inspection bythe Chief Executive Officer or any person authorized by him.
3. No collection of protected resources is permitted during
4. All protected resources collected shall be kept, stored and preserved at.....
5. Research on the protected resources may be undertaken only at.....
6. No export of any of the protected resources collected Pursuant hereto shall be permitted.
7. The permit holder shall comply with and observe all the provisions of the Sarawak Biodiversity Regulations, 2004, regarding the use and research of the protected resources collected under this Permit and the supply ad furnishing of samples, reports and data to the Centre.
8. Collection of protected resources for research purposes shall be undertaken in accordance with the terms and conditions of a research agreement dated entered into between the Government of Sarawak and the holder of this Permit.
9. No rights and privileges hereby conferred may be exercised by the holder of this Permit until he furnishes security in the form of to the Sarawak Biodiversity Centre and this Permit shall be cancelled if such security is withdrawn or ceases to be valid or enforceable.
10. This Permit Must be surrendered to the Chief Executive Officer upon the expiry, suspension or cancellation thereof.
11. Other conditions:

Date:

Chief Executive Officer for and on behalf of Sarawak Biodiversity, Council

* Delete where inapplicable

Fee: paid vide Receipt No.:

Extended to:

FORM 2

(Regulation 10)

PERMIT FOR EXPORT OF BIOLOGICAL AND PROTECTED RESOURCES

This is to certify that
.....
(name)

(I.C. No.) of
.....
(address)

..... is authorized to export to
.....the type and quantities of *biological/protected resources stated hereunder for
research Purposes/ pharmaceutical development/biotechnological uses subject to the provisions of [he Sarawak
Biodiversity Regulations, 2004, and the terms and conditions stated below:

<i>Biological/Protected Resources ,</i>	<i>Quantity to be</i>	<i>No. of Occasion</i>
<i>Scientific Name, Local Name</i>	<i>Exported</i>	<i>or Shipment</i>

Terms and Conditions:

1. This Permit is valid until ; and may be renewed at the sole discretion of the Council.
2. The biological and protected resources or extracts thereof are exported for to be carried out
(state purpose)
at
3. The permit holder shall comply with other applicable written laws governing the export of the said materials from Sarawak.
4. The permit holder shall lodge with the Chief Executive Officer security in the form of *bank guarantee/cash/bond in the amount of RM for the due performance and compliance with the terms and conditions hereof. The said Security shall be forfeited to the Government in the event of any breach or non-compliance with the terms and conditions of this Permit which results in the cancellation thereof.
5. This Permit is not transferable.

Date:

*Chief Executive Officer
for and on behalf of
Sarawak Biodiversity Council*

Fee paid vide:

Extended to

**Delete where inapplicable.*

FORM 3

(Regulation 28)

PERMIT FOR SALE OF PROTECTED RESOURCES

This is to certify that
.....
(name)

(I.C. No.) of
.....
(address)

.....is authorized to sell the protected resources stated hereinunder subject to the provisions of the Sarawak Biodiversity Regulations, 2004 and the terms and conditions stipulated herein.

"Species of protected resources:

Scientific Name

Local Name

Terms and Conditions

1. This Permit is valid until and may be renewed at the sole discretion of the Council.
2. The said species of protected resources may be sold to..... or such other persons as may be approved in writing by the Council.
3. The said species of protected resources shall be used for and not for any other purpose (purpose)
4. A separate export permit is required if the said species of protected resources is to be taken Out of the State of Sarawak.
5. (1) A security deposit in the form of *bank guarantee/cash/bond in the sum of shall be provided to the Chief Executive Officer upon the issue of this Permit failing which this Permit shall be deemed to be automatically invalidated and cancelled.

(2) The security deposit shall be forfeited by the Council in the event of a cancellation of this Permit by reason of the breach of any of the conditions of this Permit or the provisions of the Sarawak Biodiversity Regulations, 2004, by the permit holder.
6. This Permit is not transferable.
7. An account of all sales made by the permit holder must be submitted to the Sarawak Biodiversity Centre every quarterly beginning on

Date:

Chief Executive Officer,
for and on behalf of
Sarawak Biodiversity Council

Fee paid vide
Extended to

* Delete where inapplicable.

FORM 4

(Regulation 30)

PERMIT FOR ETHNOBIOLOGICAL RESEARCH

This is to certify that
(name)

(I.C.No.) of
.....
(address)

is authorized to carry out ethnobiological research at the place stated below among natives residing thereat on the biological resources or protected resources stated herein under, Subject to the provisions of the Sarawak Biodiversity Regulations, 2004, and the terms and conditions stated below:

Type of Biological or Protected Resources

<i>Scientific Name</i>	<i>Local Name</i>	<i>Place</i>	<i>Natives Involved</i>
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Terms and Conditions

1. This Permit is valid up to and may be renewed at the sole discretion of the Council.
2. The permit holder is obliged to make incentive payments or rewards to the natives involved in such amounts as may be determined by the Council.
3. The permit holder is required to lodge with the Chief Executive Officer security deposit in the form of of *bank guarantee/cash/bond amounting to RM for the due performance and compliance with the terms and conditions hereof
4. The permit holder is required to submit data, reports and information gathered from the research hereunder to the Sarawak Biodiversity Centre at such periodical intervals as may be determined by the Chief Executive Officer.
5. The permit holder shall comply with such directions as may be given to him from time to time by the Chief Executive Officer in undertaking the research permitted hereunder.
6. This Permit is not transferable.

Date:

*Chief Executive Officer
for and on behalf of
Sarawak Biodiversity Council*

Fee paid vide:

Extended to

**Delete where inapplicable.*

Made by the Majlis Mesyuarat Kerajaan Negeri this 20th day of May, 2004.

ABDUL GHAFUR SHARIFF,
Clerk to Majlis Messyuarat Kerajaan Negeri

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BAGI PIHAK DAN DENGAN KUASA PERINTAH KERAJAAN SARAWAK

