



Regulation relating to the protection of traditional knowledge associated with genetic material

Date	FOR-2016-11-25-1367
Ministry	Ministry of Climate and Environment
Entry into force	01.01.2017
Abbreviated title	Regulation on protection of traditional knowledge associated with genetic material
Original title	Forskrift om beskyttelse av tradisjonell kunnskap knyttet til genetisk materiale

This is an unofficial translation of the Norwegian version of the Regulation and is provided for information purposes only. Legal authenticity remains with the Norwegian version as published in Norsk Lovtidend. In the event of any inconsistency, the Norwegian version shall prevail.

The translation is provided by the Ministry of Climate and Environment.

Legal basis: Adopted by Royal Decree of 25 November 2016 under section 61a of the Act of 19 June 2009 No. 100 relating to the management of biological, geological and landscape diversity. Submitted by the Ministry of Climate and Environment.

Section 1. Purpose

These regulations are intended to ensure that the interests of indigenous and local communities are safeguarded and respected in connection with access or use by others of knowledge associated with genetic material that has been developed, used, sustained and passed on within an indigenous or local community (traditional knowledge). Traditional knowledge includes skills, practices and learning that have been collectively developed, used, sustained and passed on from generation to generation within an indigenous or local community.

Section 2. Requirement for consent to access and use by others of traditional knowledge associated with genetic material

Access to and use by others of traditional knowledge associated with genetic material that is unique to or characteristic of an indigenous or local community or that is linked to the traditional way of life of the community requires consent from a representative or decision-making body that is entitled to represent and

make commitments on behalf of the indigenous or local community. The requirement for consent also applies to access to and use of sources of knowledge when the only purpose is to identify or survey traditional knowledge.

The requirement for consent does not apply to persons who belong to the indigenous or local community that has developed, used, sustained and passed on the knowledge in question.

Section 3. Exemptions from the requirement for consent

Consent is not required if the traditional knowledge:

- a) is used for private and non-commercial purposes;
- b) is reproduced or used for the purposes of citation or education, and the source is disclosed;
- c) is used in connection with research or experimentally in a way that concerns the knowledge itself, with the purpose of confirming or disproving the objective basis of the knowledge;
- d) has over a reasonable period of time been generally known or available outside the indigenous or local community in question.

Section 4. The scope of consent and conditions for use

Consent may be given on specific conditions, for example that the indigenous or local community shall receive a reasonable share of the benefits obtained by using the knowledge to which the consent applies.

Traditional knowledge shall be used in a way that is not offensive to the indigenous or local community that has used, sustained and passed on the knowledge.

Any person that uses traditional knowledge shall acknowledge, and to the extent reasonable, declare that the knowledge was developed, used, sustained and passed on by the indigenous or local community in question.

Section 5. Sanctions

Any person that obtains access to or makes use of traditional knowledge in contravention of sections 2 and 4 may be prohibited by a court judgment from doing so again, including making use of the knowledge in specified ways that would constitute contravention. In the event of contravention of section 4, third paragraph, the offender may, if it is considered necessary and reasonable, also be required by a court judgment to initiate information activities to make the general public aware that the knowledge was developed, used, sustained and passed on by the indigenous or local community in question.

Section 6. Compensation for financial and non-financial losses and injury

Any person that has wilfully or negligently made use of traditional knowledge associated with genetic material without consent in accordance with section 2 shall pay the injured indigenous or local community reasonable compensation for this use, and compensation for any further losses caused by use of the knowledge.

Any person that wilfully or through gross negligence has contravened the prohibition against [culturally] offensive use in section 4, second paragraph, may be ordered to pay the injured indigenous or local community a lump sum that the court finds is reasonable compensation for the non-financial injury or damage.

Section 7. *Indigenous and local communities in other states*

These regulations apply to traditional knowledge relating to genetic material developed, used, sustained and passed on by indigenous and local communities in other countries, provided that access to or use of such knowledge requires consent under the legislation of the state in question.

Section 8. *Entry into force. Transitional rules*

These regulations enter into force on 1 January 2017.

These regulations do not restrict a person's right to make use of traditional knowledge to which they have gained access before the date of their entry into force. In cases where a person has gained access to traditional knowledge in contravention of legislation in another state requiring the consent of indigenous or local communities, such knowledge may be utilised provided that a reasonable lump sum in compensation is paid to the indigenous or local community in question.