

Act on sharing benefits arising from the utilisation of genetic resources

We, Margrethe II, by the grace of God Queen of Denmark hereby witness: Folketinget has adopted and We with Our consent hereby enact the following Act:

1. The objective of this Act is to ensure the sharing of benefits from the utilisation of genetic resources.

2. For the purpose of this act the following definitions shall apply:

1. Genetic resources: The functional inherited properties of organisms and naturally occurring biochemical substances resulting from genetic expression or metabolism of the organisms.

2. Utilisation: To conduct research and development on the genetic and/or biochemical composition of genetic resources, including through the use of biotechnology. Utilisation is also understood to mean development and marketing of products based on genetic resources.

3. The Nagoya Protocol: The Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the Convention on Biological Diversity.

3. Genetic resources may not be utilised in Denmark, if they have been acquired in violation of the legislation on access to genetic resources, cf. Article 6 the Nagoya Protocol, in the country they have been accessed.

(2) Subsection 1 above is applicable to genetic resources from countries that, as Parties to the Nagoya Protocol, have legislated in accordance with Article 6 of the Nagoya Protocol.

4. Traditional knowledge associated with genetic resources and held by indigenous and local communities must not be utilised in Denmark if this knowledge has been acquired in violation of relevant legislation cf. Article 7 of the Nagoya Protocol in the country where the traditional knowledge was accessed.

(2) Subsection 1 above is applicable to traditional knowledge acquired from countries that, as Parties to the Nagoya Protocol, have legislated on this matter in accordance with article 7 of the Nagoya Protocol.

5. The Danish Minister for the Environment may make regulations on procedures and standards that must be followed to ensure compliance with the prohibitions in Sections 3 and 4, including regulation on digitisation of these.

6. The Danish Minister for the Environment may make regulations requiring reporting of the collection of genetic resources from wild organisms in Denmark, including information on the intended utilisation. The Danish Minister for the Environment may specify that it must be done electronically.

7. The Danish Minister for the Environment must monitor and ensure compliance with this Act and regulations issued in accordance with this Act.

8. The Danish Minister for the Environment and persons authorised by the Minister shall, upon presentation of appropriate ID, have the right of access without court order to public and private properties and sites in order to exercise the powers provided by this Act or in regulations issued in accordance with this Act. Wherever possible, prior notification shall be given to the owner or user.

(2) Subsection 1 shall not apply to buildings or parts of buildings that are exclusively used as private residences.

(3) During inspections of commercial enterprises, the owner and employees shall provide the authorities with the necessary guidance and help when requested.

9. The Minister for the Environment may authorise an agency established as part of the Ministry or, after negotiation with the relevant ministers, other state authorities to exercise the powers conferred on the Minister by this Act.

(2) The Minister may make Regulations concerning the right to appeal decisions made on the basis of powers conferred in accordance with subsection 1, including that such decisions may not be appealed.

(3) The Minister may also make Regulations concerning the exercise of powers conferred on another state authority after discussion with the relevant minister pursuant to subsection 1.

10. The Government may conclude agreements with foreign States on common measures to comply with the objectives of the Act.

(2) The Minister for the Environment shall make regulations to comply with international agreements concluded in accordance with subsection 1.

(3) The Minister for the Environment may make the necessary regulations on the application in Denmark of the European Union Regulations concerning matters covered by this Act.

(4) The Minister for the Environment shall make regulations to comply with the European Union Directives and Decisions within the area of the Act.

11. Unless a higher penalty is applicable in accordance with other legislation, a fine shall be imposed on anyone who infringes Sections 3 and 4.

(2) The penalty may increase to imprisonment of up to two years, if the infringement has been committed intentionally or due to gross negligence and, as a result of the infringement, an economic advantage has been obtained or was the intention of the party concerned or others.

(3) Regulations issued pursuant to the Act may specify that a fine shall be imposed on anyone who violates the provisions of these regulations.

(4) Companies etc. (legal entities) may be penalised in accordance with the rules in Chapter 5 of the Criminal Code.

(5) If the benefit achieved through the infringement is not confiscated, consideration shall be made of the size of the financial benefit achieved or intended when determining the fine, including a supplementary fine, cf. subsection 2.

(6) The statute of limitations for criminal liability is five years.

12. The Act will enter into effect as determined by an Order issued by the Minister of the Environment.

(2) The act is applicable to genetic resources and traditional knowledge accessed after its entry into force.

13. This Act shall not apply in the Faroe Islands and Greenland.

Given at Marselisborg Castle, 23rd December 2012

Under Our Royal Hand and Seal

MARGRETHE R.

/ Ida Auken