

The following Bill, about to be introduced into the Legislative Assembly, is published for general information.



**STATE OF SABAH**

## **A BILL**

*intituled*

An Enactment to amend the Sabah Biodiversity Enactment 2000.

ENACTED by the Legislature of the State of Sabah as follows:

### **Short title and commencement**

1. (1) This Enactment may be cited as the Sabah Biodiversity (Amendment) Enactment 2023.

(2) This Enactment comes into operation on 1 September 2023.

**LAB 9 OF 2023**

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**Substitution of long title**

2. The Sabah Biodiversity Enactment 2000 [*No. 7 of 2000*], which is referred to as the “principal Enactment” in this Enactment, is amended by substituting for the long title the following long title:

“An Enactment to establish the Sabah Biodiversity Council and the Sabah Biodiversity Centre for the purposes of conservation and sustainable use of, and management of access to biological resources or traditional knowledge associated with biological resources and the sharing of benefits arising from their utilization and for matters connected therewith.”.

**General amendment**

3. The principal Enactment is amended —

- (a) by substituting for the words “biological resource or associated relevant knowledge”, “biological resources or associated relevant knowledge”, “biological resources or associated relevant traditional knowledge”, “biological resources or relevant traditional knowledge”, “biological resources or the associated knowledge” and “biological resources or the associated relevant knowledge” wherever appearing the words “biological resources or traditional knowledge associated with biological resources”;
- (b) by substituting for the words “associated relevant knowledge” wherever appearing the words “traditional knowledge associated with biological resources”;
- (c) by substituting for the word “Council” wherever appearing in sections 9, 10, 15, 18, 20, 22, 24A, 24B, 25, 26 and in paragraph 37(1)(j) the word “Director”;
- (d) except in paragraphs 3(2)(a) and (c) and section 34, by substituting for the word “Secretary” or “secretary” wherever appearing the word “Director”;

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- (e) by substituting for the words “State Government” wherever appearing the word “Government”; and
- (f) in the National language text —
- (i) by substituting for the word “ahli” or “ahli-ahli” wherever appearing the word “anggota”;
  - (ii) by substituting for the word “berterusan” wherever appearing in sections 3A and 9 the word “lestari”; and
  - (iii) by substituting for the word “Tabung” and “tabung” the words “Kumpulan Wang” and “kumpulan wang” respectively.

#### **Amendment of section 2**

#### **4. Section 2 of the principal Enactment is amended —**

- (a) in the definition of “access”, by substituting for the word “2A” the word “14A”;
- (b) in the definition of “access licence”—
- (i) by substituting for the word “Council” the word “Director”; and
  - (ii) in the National language text, by inserting after the word “untuk” the word “mengakses”;
- (c) by deleting the definition of “associated relevant knowledge”;
- (d) by inserting after the definition of “derivatives” the following definition:
- ‘ “Director” means the Director of the Sabah Biodiversity Centre;’;

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- (e) by inserting after the definition of “ex situ collection” the following definition:
- ‘ “export” means to take or cause to be taken out of Sabah any biological resources or traditional knowledge associated with biological resources by land, sea, air or any other means, as the case may be, or to place any biological resources in a vessel, barge, conveyance or aircraft for the purpose of the biological resources being taken out of Sabah by land, sea, or air;’; and
- (f) by deleting the definition of “Secretary”.

#### **Deletion of section 2A**

5. The principal Enactment is amended by deleting section 2A.

#### **Amendment of section 3**

6. Section 3 of the principal Enactment is amended by substituting for subsection (3) the following subsection:

“(3) The Director shall be the Secretary to the Council.”

#### **Amendment of section 3A**

7. Section 3A of the principal Enactment is amended—

- (a) by inserting after paragraph (a) the following paragraph:
- “(aa) to advise the Government on matters relating to the management of biological resources and traditional knowledge associated with biological resources in accordance with international requirements;”;

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- (b) in paragraph (b) —
- (i) in the English language text, by inserting after the words “to advise” the words “the Government”; and
  - (ii) in the National language text, by substituting for the words “memberi nasihat” the words “menasihati Kerajaan”;
- (c) by deleting paragraphs (d), (e), (j), (k), (l), (m) and (n); and
- (d) by deleting subsection (2).

### **Amendment of section 5**

8. Section 5 of the principal Enactment is amended in the marginal note, in the National language text, by substituting for the word “keahlian” the word “keanggotaan”.

### **New sections 7A, 7B, 7C and 7D**

9. The principal Enactment is amended by inserting after section 7 the following sections:

#### **“Council may establish committee**

**7A.** (1) The Council may establish any committee as it considers necessary or expedient to assist the Council in the performance of its functions or in the exercise of its powers.

(2) Members of a committee may be appointed from amongst the members of the Council or such other person as the Council thinks fit.

(3) The Council shall appoint the chairman of the committee established under this section.

(4) A member of a committee shall hold office for such term as the Council may specify in his letter of appointment and shall be eligible for reappointment.

(5) The Council may, at any time, revoke the appointment of any member of a committee who is not a member of the Council.

(6) A member of a committee who is not a member of the Council may, at any time, resign by giving a notice in writing to the chairman of the committee.

(7) The committee shall be subject to and act in accordance with any direction given by the Council.

(8) The committee shall meet as often as may be necessary at such times and places as the chairman of the committee may determine.

(9) The committee may determine its own procedure.

(10) The committee may invite any other person to attend any meeting of the committee for the purpose of advising the committee on the matter under discussion, but the person is not entitled to vote at the meeting.

(11) The members of the committee or any person invited under subsection (10) to attend any meeting of the committee may be paid such allowances as the Council may determine.

(12) The committee shall cause minutes of all its meetings to be maintained and kept in proper form, and copies of the minutes shall be submitted by the committee to the Council as soon as practicable.

#### **Disclosure of interest**

**7B.** (1) Any member of the Council or a committee having directly or indirectly any interest in relation to any matter under discussion by the Council or the committee shall disclose to the Council or the

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committee, as the case may be, the fact of his interest and the nature of that interest.

(2) A disclosure of interest under subsection (1) shall be recorded in the minutes of the meeting of the Council or the committee, as the case may be.

(3) Upon disclosure under subsection (1), the member —

- (a) shall not take part in or be present during any discussion or decision of the Council or the committee; and
- (b) shall be disregarded for the purpose of constituting a quorum of the meeting of the Council or the committee,

relating to the matter.

(4) A member of the Council or the committee who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding thirty thousand ringgit or to imprisonment for a term not exceeding two years or to both.

(5) No act or proceeding of the Council or the committee shall be invalidated on the ground that any member of the Council or the committee has contravened this section.

### **Council may appoint advisers**

**7C.** The Council may appoint any person with the requisite experience, expertise and knowledge in biological resources or traditional knowledge associated with biological resources as adviser or consultant for the Council, and may form a Panel of Advisers or Consultants to advise the Council on the performance of its functions or exercise of its powers.

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**Power of Council to delegate**

**7D.** (1) The Council may, in writing, delegate any of its functions or powers subject to such conditions, limitations or restriction as it thinks fit, to the Chairman of the Council, Director or any committee, and such person or committee to whom the functions or powers is delegated shall perform the functions or powers in the same manner and with the same effect as if the functions or powers had been conferred on him under this Enactment.

(2) A person purporting to act pursuant to a delegation made under this section shall, in the absence of proof to the contrary, be presumed to be acting in accordance with the terms of the delegation.

(3) A delegation made under this section may at any time be revoked by the Council.

(4) A delegation made under this section shall not preclude the Council itself from carrying out at any time the delegated functions or powers.”

**New Part IIA**

**10.** The principal Enactment is amended by inserting before section 9 the following Part:

“PART IIA

FUNCTIONS AND POWERS OF DIRECTOR AND  
ESTABLISHMENT OF SABAH BIODIVERSITY CENTRE

**Director**

**8A.** (1) There shall be a Director of Sabah Biodiversity Centre from amongst the members of the State public service.

(2) There shall be such number of officers, from amongst the



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members of the State public service, as may be necessary or expedient to assist the Director in the performance of his functions or in the exercise of his powers under this Enactment.

(3) A person appointed under subsection (2) shall be subject to the direction, control and supervision of the Director.

### **Functions and powers of the Director**

**8B.** The Director shall have the following functions and powers:

- (a) to manage the Biodiversity Centre;
- (b) to deal with all the applications for access to biological resources or traditional knowledge associated with biological resources and the sharing of benefits arising from the utilization of the biological resources or traditional knowledge associated with biological resources;
- (c) to approve, after consultation with the Council, and issue access licence and export licence;
- (d) to maintain a record of all access applications and decisions relating to such application, including the licence issued;
- (e) to regulate the access to the biological resources or traditional knowledge associated with biological resources of the State including the removal of any biodiversity from the State;
- (f) to identify the priorities for research on biodiversity to enhance undertaking, conservation and sustainable utilization of biodiversity and biological resources or traditional knowledge associated with biological resources, including ethnobotany, taxonomy and traditional uses;

- (g) to co-ordinate local, state and national activities relating to conservation, research and sustainable use of biological resources or traditional knowledge associated with biological resources and biodiversity;
- (h) to co-ordinate preparations for regional and international activities relating to the conservation, research and sustainable use of biological resources or traditional knowledge associated with biological resources and biodiversity;
- (i) to formulate programmes for systematic surveys of biodiversity and the collection and analysis of the data thereto;
- (j) to plan and initiate programmes for the utilization, conservation, protection and sustainable development of biological resources or traditional knowledge associated with biological resources;
- (k) to establish or caused to be established a system for the protection of biological resources or traditional knowledge associated with biological resources so that the native and local communities shall, at all times and in perpetuity, be the legitimate creators, users and custodian of such knowledge, and shall collectively benefit from the use of such knowledge;
- (l) to establish linkages with other institution or bodies, within or outside the State, with a view to enhancing the management, protection, preservation, research and utilization of the biodiversity or traditional knowledge associated with biological resources of the native and local community of the State;
- (m) to create awareness and to provide training, education and information relating to access and benefit sharing in

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relation to a biological resources or traditional knowledge associated with biological resources;

- (n) to support customary laws and practices of native and local communities, and the development of community protocols and procedures by the native and local communities, as the case may be;
- (o) generally to promote education and knowledge of the biodiversity of the State;
- (p) to carry on of all activities of which appears to the Director to be necessary, advantages or convenient for or in connection with the performance and exercise of his functions and powers; and
- (q) to do such other things as the Director deems fit to enable him to perform and exercise his functions and powers effectively or which are incidental to the performance and exercise of his functions and powers.

### **Delegation of powers**

**8C.** (1) The Director may, in writing, delegate any of his functions or powers subject to such conditions, limitations or restriction as he thinks fit, to any officer, and such person to whom the functions or powers is delegated shall perform the functions or powers in the same manner and with the same effect as if the functions or powers had been conferred on him under this Enactment.

(2) A person purporting to act pursuant to a delegation made under this section shall, in the absence of proof to the contrary, be presumed to be acting in accordance with the terms of the delegation.

(3) A delegation made under this section may at any time be revoked by the Director.

(4) A delegation made under this section shall not preclude the Director himself from carrying out at any time the delegated functions or powers.”.

### **Amendment of section 9**

**11.** Section 9 of the principal Enactment is amended —

- (a) by substituting for the words “(hereinafter called “the Centre”) to be managed and maintained by the Council” the words “to be managed by the Director”;
- (b) in paragraph (l), in the English language text, by substituting for the word “its” the word “his”;
- (c) by deleting paragraphs (d), (e), (g), (j), (k), (ka), (kb), (kc), (kd) and (m); and
- (d) by deleting subsection (2).

### **Amendment of section 10**

**12.** Section 10 of the principal Enactment is amended —

- (a) in subsection (1), in the English language text, by substituting for the word “its” the word “his”; and
- (b) by deleting subsection (2).

### **Deletion of sections 11, 12 and 13**

**13.** The principal Enactment is amended by deleting sections 11, 12 and 13.

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**Amendment of section 14**

14. Section 14 of the principal Enactment is amended by inserting after subsection (1) the following subsection:

“(1A) The Fund shall be administered, controlled and maintained by the Director.”.

**Substitution of heading of Part IV**

15. The principal Enactment is amended by substituting for the heading of Part IV the following heading:

“ACCESS TO BIOLOGICAL RESOURCES OR TRADITIONAL  
KNOWLEDGE ASSOCIATED WITH BIOLOGICAL  
RESOURCES”.

**New sections 14A and 14B**

16. The principal Enactment is amended by inserting before section 15 the following sections:

**“Access to biological resources or traditional knowledge associated with biological resources**

**14A.** (1) A person is said to have access to biological resources or traditional knowledge associated with biological resources if —

- (a) the taking of a biological resources or traditional knowledge associated with biological resources from its natural habitat or place where it is kept, grown or found including in the market is for the purpose of research and development;
- (b) there is a reasonable prospect as determined by the Council that a biological resources or traditional

knowledge associated with biological resources taken by the person will be subject to research and development; or

- (c) the collecting of a biological resource's reproductive material for propagation is for the purpose of research and development.

(2) Access to a biological resources or traditional knowledge associated with biological resources shall not include the following activities:

- (a) fishing for commerce, recreation or game;
- (b) taking animals or plants for food;
- (c) taking biological resources that has been cultivated or tended for any purpose other than the purpose of research and development;
- (d) taking natural produce including oils and honey for any purpose other than the purpose of research and development;
- (e) collecting plant reproductive material for propagation for any purpose other than the purpose of research and development;
- (f) carrying out commercial forestry;
- (g) in relation to native and local communities, for the use and exchange of the biological resources or traditional knowledge associated with biological resources among themselves in the exercise of their traditional and customary practices;
- (h) taking of a biological resources or traditional knowledge associated with biological resources by

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any person that is —

- (i) a living modified organism as defined in the Biosafety Act 2007 [Act 678] for which intellectual property rights have been granted and subsist; or
  - (ii) a plant variety for which a breeder's right has been granted and subsists under the Protection of New Plant Varieties Act 2004 [Act 634]; and
- (i) access to a biological resources or traditional knowledge associated with biological resources exempted under section 36A.

### **Protected biological resources**

**14B.** (1) Subject to any other written laws, no person shall keep, sell, purchase, export or import any protected biological resources specified in the Schedule.

(2) Any person who contravenes subsection (1) commits an offence and shall, upon conviction, be liable to a fine not exceeding two hundred thousand ringgit or to imprisonment for a term not exceeding five years or to both.

(3) For the purpose of this section, "protected biological resources" means any biological resources which has satisfied at least three of the following criteria:

- (a) endemic to Sabah;
- (b) rare or geological obligate;
- (c) endangered;
- (d) has significant cultural value;

- (e) has ecological importance;
- (f) has genetic value;
- (g) high in demand; and
- (h) has potential commercial value.”

### **New section 15A**

17. The principal Enactment is amended by inserting after section 15 the following section:

#### **“Conditions of approval for an access licence**

**15A.** (1) The Director shall, as a condition for approval of an access licence, require the User to —

- (a) identify a Sabah institution as the local collaborator that will collaborate and participate in the collection, research and development and other activities in relation to the biological resources or traditional knowledge associated with biological resources concerned; and
- (b) identify the foreign institution that shall act as the sponsor organisation responsible for the actions of the User with regard to the access activity, where appropriate.

(2) The Government may impose or attach any other conditions to the approval of the application as it deems fit.”

### **Amendment of section 17**

18. Section 17 of the principal Enactment is amended —



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- (a) by renumbering the existing section as subsection (1); and
  - (b) by inserting after subsection (1) as renumbered the following subsection:

“(2) The Director may request additional information or document as he deems necessary.”

#### **Amendment of section 19**

19. Section 19 of the principal Enactment is amended in paragraph (b) by substituting for the word “Council” the words “Director, after consultation with the Council”.

#### **Amendment of section 20**

20. Section 20 of the principal Enactment is amended in the National language text by renumbering the existing subsections (1), (2) and (3) as paragraphs (a), (b) and (c) respectively.

#### **Substitution of section 21**

21. The principal Enactment is amended by substituting for section 21 the following section:

##### **“Grant or refusal of licence**

21. (1) The Director shall, after consulting the Council, and considering the application for an access licence under section 15 and any additional information or document provided under subsection 17(2), grant a licence or refuse to grant a licence.

(2) The licence issued under subsection (1) shall be in the prescribed form and shall be subject to such terms and conditions as may be specified in the licence or as prescribed by the Director.

(3) The decision of the Director to grant or not to grant a licence shall be communicated to the applicant by written notice as soon as practicable.”.

### **New sections 21A and 21B**

22. The principal Enactment is amended by inserting after section 21 the following sections:

#### **“Prohibition against export of biological resources or traditional knowledge associated with biological resources**

**21A.** No export for research purposes of any biological resources or traditional knowledge associated with biological resources collected from alienated land, conservation area, forest reserve, parks area, protected areas, State land, water protection areas or water conservation areas, wildlife area, rivers, tributaries, waterways, marine parks, territorial waters under the State or other area without a licence issued by the Director.

#### **Presumption as to export**

**21B.** In relation to export, any biological resources or traditional knowledge associated with biological resources shall be deemed to be taken out or caused to be taken out of Sabah if —

- (a) an export licence has been issued by the Director;
- (b) it has been cleared by a proper officer of customs at the last customs station on its route out of Sabah;
- (c) it has been loaded onto a vessel or aircraft which is about to depart from a port, jetty or airport in Sabah, as the case may be; or
- (d) it has been cleared by a proper officer of customs at an

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inland clearance depot or at an inland customs station on its route out of Sabah through a port or an airport, as the case may be.”

#### **Deletion of sections 23 and 24**

23. The principal Enactment is amended by deleting sections 23 and 24.

#### **Amendment of section 25**

24. Section 25 of the principal Enactment is amended in subsection (2) by substituting for the words “its consent” the words “his approval”.

#### **Deletion of section 28**

25. The principal Enactment is amended by deleting section 28.

#### **New section 36B**

26. The principal Enactment is amended by inserting after section 36A the following section:

##### **“Protection against suit and legal proceedings**

**36B.** No action or prosecution shall be brought, instituted or maintained in any court against —

- (a) the members of the Council or committee, the Director or any officers duly authorized under this Enactment for or on account of or in respect to any act ordered or done for the purpose of carrying into effect this Enactment and any regulations made under this Enactment; and

- (b) any other person for any act done or purported to be done by him under the order, direction or instruction of the Council or Director under this Enactment,

if the act was done in good faith and in a reasonable belief that it was necessary for the purpose intended to be served by it and for the carrying into effect the provisions of this Enactment.”

### **Amendment of section 37**

27. Section 37 of the principal Enactment is amended in subsection (1) by deleting the words “, after consultation with the Council,”.

### **New section 38**

28. The principal Enactment is amended by inserting after section 37 the following section:

#### **“Amendment of Schedule**

38. The Minister may, after consultation with the Council, by order published in the *Gazette*, amend the Schedule.”.

### **Schedule**

29. The principal Enactment is amended by inserting after section 38 the following Schedule:

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 "SCHEDULE

## [Section 14B]

## PROTECTED BIOLOGICAL RESOURCES

## ANIMALS

No.	Family	Scientific Name
1.	Carcharhinidae	<i>Carcharhinus leucas</i>
2.		<i>Glyphis glyphis</i>
3.	Dasyatidae	<i>Urogymnus polylepis</i>
4.	Limulidae	<i>Tachypleus tridentatus</i>
5.	Pristidae	<i>Pristis pristis</i>
6.	Papilionidae	<i>Troides andromache</i>

## PLANTS

No.	Family	Scientific Name
1.	Annonaceae	<i>Goniothalamus kinabaluensis</i>
2.	Aquifoliaceae	<i>Ilex revoluta</i>
3.	Araceae	<i>Alocasia melo</i>
4.		<i>Alocasia regimula</i>
5.	Araliaceae	<i>Heptapleurum beamanii</i>
6.		<i>Heptapleurum chanii</i>
7.		<i>Heptapleurum kinabaluense</i>
8.		<i>Heptapleurum opacum</i>

9.		<i>Heptapleurum peridotiticola</i>
10.		<i>Heptapleurum serpentinicola</i>
11.		<i>Heptapleurum tambuyukonense</i>
12.		<i>Athyrium amoenum</i>
13.	Athyriaceae	<i>Deparia biserialis</i>
14.		<i>Diplazium atosquamosum</i>
15.		<i>Begonia basintaliana</i>
16.		<i>Begonia beryllae</i>
17.		<i>Begonia bintang</i>
18.		<i>Begonia bosuangiana</i>
19.		<i>Begonia burbidgei</i>
20.		<i>Begonia chongii</i>
21.		<i>Begonia crockerensis</i>
22.		<i>Begonia doloisii</i>
23.	Begoniaceae	<i>Begonia erythrogyna</i>
24.		<i>Begonia flammea</i>
25.		<i>Begonia gelasensis</i>
26.		<i>Begonia gibbsiae</i>
27.		<i>Begonia gusilii</i>
28.		<i>Begonia imbricata</i>
29.		<i>Begonia inobongensis</i>
30.		<i>Begonia inostegia</i>
31.		<i>Begonia jambiliana</i>

32.		<i>Begonia kibambanganensis</i>
33.		<i>Begonia kinabaluensis</i>
34.		<i>Begonia kinahimiae</i>
35.		<i>Begonia kipandiensis</i>
36.		<i>Begonia lamriana</i>
37.		<i>Begonia mamutensis</i>
38.		<i>Begonia mariaensis</i>
39.		<i>Begonia minutiflora</i>
40.		<i>Begonia moneta</i>
41.		<i>Begonia oblongifolia</i>
42.		<i>Begonia paracauliflora</i>
43.		<i>Begonia peridoticola</i>
44.		<i>Begonia rambutan</i>
45.		<i>Begonia ramlanii</i>
46.		<i>Begonia renek</i>
47.		<i>Begonia simunii</i>
48.		<i>Begonia tawaensis</i>
49.		<i>Begonia tindan</i>
50.		<i>Begonia tomaniensis</i>
51.		<i>Begonia vaccinioides</i>
52.		<i>Begonia vanderentii</i>
53.	Cyperaceae	<i>Machaerina aspericaulis</i>
54.		<i>Oreobolus ambiguus</i>

55.	Dryopteridaceae	<i>Ctenitis minutiloba</i>
56.	Ericaceae	<i>Gaultheria aurea</i>
57.		<i>Gaultheria carrii</i>
58.		<i>Gaultheria caudatifolia</i>
59.		<i>Gaultheria chrysothrix</i>
60.		<i>Gaultheria cinnamomifolia</i>
61.		<i>Gaultheria clementium</i>
62.		<i>Gaultheria ensifolia</i>
63.		<i>Gaultheria kinabaluensis</i>
64.		<i>Gaultheria memecyloides</i>
65.		<i>Gaultheria myrtillos</i>
66.		<i>Gaultheria penduliflora</i>
67.		<i>Gaultheria pseudorufescens</i>
68.		<i>Gaultheria sanguinolenta</i>
69.		<i>Gaultheria sphenophylla</i>
70.		<i>Gaultheria urceolata</i>
71.		<i>Gaultheria sulcinervia</i>
72.	Phyllanthaceae	<i>Actephila alanbakeri</i>
73.	Gleicheniaceae	<i>Dicranopteris clemensiae</i>
74.	Goodeniaceae	<i>Scaevola chanii</i>
75.	Lamiaceae	<i>Callicarpa kinabaluensis</i>
76.		<i>Clerodendrum kinabaluense</i>
77.		<i>Petraeovitex kinabaluensis</i>



78.	Lindsaeaceae	<i>Lindsaea jamesonioides</i>
79.		<i>Odontosoria veitchii</i>
80.	Magnoliaceae	<i>Magnolia persuaveolens</i> var. <i>pubescens</i>
81.		<i>Magnolia persuaveolens</i> subsp. <i>rigida</i>
82.		<i>Magnolia persuaveolens</i>
83.	Melastomataceae	<i>Catanthera kinabaluensis</i>
84.		<i>Medinilla kinabaluensis</i>
85.		<i>Sonerila kinabaluensis</i>
86.	Moraceae	<i>Ficus densechini</i>
87.	Myrtaceae	<i>Syzygium penibukanense</i>
88.	Phyllanthaceae	<i>Phyllanthus rufuschaneyi</i>
89.	Pittosporaceae	<i>Pittosporum peridoticola</i>
90.	Poaceae	<i>Anthoxanthum horsfieldii</i>
91.		<i>Poa borneensis</i>
92.		<i>Racemobambos gibbsiae</i>
93.		<i>Koeleria spicata</i>
94.	Podocarpaceae	<i>Dacrycarpus kinabaluensis</i>
95.	Polypodiaceae	<i>Oreogrammitis havilandii</i>
96.		<i>Oreogrammitis kinabaluensis</i>
97.	Pteridaceae	<i>Pteris clemensiae</i>
98.	Tectariaceae	<i>Tectaria nitens</i>
99.	Thelypteridaceae	<i>Pneumatopteris microauriculata</i>
100.		<i>Reholtiumia micropaleata</i>

101.		<i>Pronephrium peltatum</i> var. <i>tenompokense</i>
102.		<i>Pseudophegopteris kinabaluensis</i>
103.		<i>Sphaerostephanos gymnorachis</i>
104.		<i>Sphaerostephanos lithophyllus</i>
105.		<i>Sphaerostephanos lobangensis</i>
106.		<i>Sphaerostephanos squamatellus</i>
107.	Ranunculaceae	<i>Ranunculus lowii</i>
108.	Rosaceae	<i>Rubus lowii</i>
109.		<i>Rhaphiolepis balgooyi</i>
110.	Rubiaceae	<i>Timonius beamanii</i>
111.		<i>Timonius pannosus</i>
112.		<i>Timonius stenolobus</i>
113.		<i>Timonius tambuyukonensis</i>
114.	Urticaceae	<i>Elatostema lithoneurum</i>
115.		<i>Elatostema maraiparatense</i>
116.		<i>Elatostema penibukanense</i>
117.		<i>Elatostema rubrostipulatum</i>
118.		<i>Elatostema serpentinicola</i>
119.		<i>Elatostema tenompokense</i>
120.	Violaceae	<i>Rinorea bengalensis</i> ".

### Savings

**30.** All licences granted or issued by the Council before the commencement of this Enactment shall continue to have effect until its expiry.

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## EXPLANATORY STATEMENT

This Bill seeks to amend the Sabah Biodiversity Enactment 2000 [No.7 of 2000] (“ the Enactment”).

2. *Clause 1* contains the short title and the commencement date of the proposed Enactment.
3. *Clause 2* seeks to amend the long title of the Enactment to specifically spell out the purpose of the Enactment.
4. *Clause 3* seeks to substitute for the word “Council” the word “Director” in sections 9, 10, 15, 18, 20, 22, 24A, 24B, 25, 26 and in paragraph 37(1)(j) of the Enactment and to substitute for the word “Secretary” or “secretary” the word “Director” in the Enactment except in paragraphs 3(2)(a) and (c) and section 34. This *clause* also seeks to update certain terms in the National language text to be in line with the current terms used in the language.
5. *Clause 4* seeks to amend section 2 of the Enactment to introduce new definitions and to amend and delete definition of certain terms used in the Enactment.
6. *Clause 6* seeks to amend section 3 of the Enactment to provide that the Director shall be the Secretary to the Council.
7. *Clause 7* seeks to amend section 3A of the Enactment to empower the Council to advise the Government on matters relating to the management of biological resources or traditional knowledge associated with biological resources in accordance with international requirement and to delete certain functions and powers of the Council as those functions and powers had been conferred on the Director under section 8B.
8. *Clause 9* seeks to introduce new sections 7A, 7B, 7C and 7D into the Enactment to provide for the provisions relating to the establishment of the committee by the Council, disclosure of interest, appointment of advisers by the Council and power of the Council to delegate.
9. *Clause 10* seeks to introduce new Part IIA and sections 8A, 8B and 8C into the Enactment to provide for the provisions relating to the appointment of the Director and officers of the Sabah Biodiversity Centre, the functions and powers of Director and delegation of his powers.
10. *Clause 11* seeks to amend section 9 of the Enactment to enable the Biodiversity Centre to be managed by the Director and to delete certain functions of the Biodiversity Centre.
11. *Clause 13* seeks to delete sections 11, 12 and 13 of the Enactment as the matters in these sections have been provided for in sections 7A, 7C and 7D.
12. *Clause 14* seeks to amend section 14 of the Enactment to empower the Director to

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administer, control and maintain the Biodiversity Centre Fund.

13. *Clause 16* seeks to introduce new section 14A into Part IV of the Enactment as this matter shall be specifically dealt with in this Part. This *clause* also seeks to introduce new section 14B to provide for the prohibition to keep, sell, purchase, export or import of protected biological resources and the definition of protected biological resources.
14. *Clause 17* seeks to rearrange section 23 of the Enactment as section 15A as this section deals with conditions for approval of an access licence before the access licence is granted.
15. *Clause 21* seeks to substitute section 21 of the Enactment to improve the provision of granting of a licence.
16. *Clause 22* seeks to reintroduce section 28 of the Enactment as section 21A as the matter in this section shall be specifically dealt with in this Part. This *clause* also seeks to introduce new section 21B into the Enactment to provide for the presumption as to export.
17. *Clause 26* seeks to introduce new section 36B into the Enactment to provide for the protection against suit and legal proceedings.
18. *Clause 28* seeks to introduce new section 38 into the Enactment to empower the Minister to amend the Schedule by an order published in the *Gazette*.
19. *Clause 29* seeks to introduce a Schedule into the Enactment to list out species of biological resources which are protected under the Enactment.
20. *Clause 30* seeks to provide for savings of all licences granted or issued by the Council before the commencement of this Enactment.
21. Other amendments not specifically dealt with in this Statement are minor or consequential in nature.

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#### FINANCIAL IMPLICATION

This Bill will not involve the State Government in any extra financial expenditure.