

THE LEGISLATURE OF THE PROVINCE OF NEUQUÉN HAS ENACTED WITH  
FORCE OF LAW:

**LAW ON ACCESS TO GENETIC AND BIOCHEMICAL RESOURCES**

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CHAPTER I

GENERAL CONSIDERATIONS

**Article 1 Purpose.** The purpose of the present Law is to establish a legal regime for access to genetic and biochemical resources located in the Province that are under the Province's original control and jurisdiction.

This Law shall not apply to access to biochemical or genetic material of human origin.

**Article 2 Public interest.** The knowledge, conservation, scientific and technological development and utilization of and research on genetic and biochemical resources are hereby declared to be matters of provincial public interest.

CHAPTER II

IMPLEMENTING AUTHORITY

**Article 3 Implementing authority.** The Ministry of Production and Tourism or any agency that succeeds it as an institution shall be the implementing authority for the present Law.

**Article 4 Functions.** The implementing authority shall have the following functions:

- (a) to promote conservation, research, scientific and technological development, and interprovincial, national and international cooperation with regard to genetic and biochemical resources located in the Province;
- (b) to advise the Executive on matters relating to the conservation and sustainable utilization of genetic and biochemical resources;
- (c) to propose to the Executive access agreements and contracts relating to genetic and biochemical resources, in accordance with the principle of sustainability of resources;
- (d) to coordinate, with other competent agencies in the Province, the carrying-out of inventories for the purpose of identifying and monitoring the components of genetic and biochemical resources;
- (e) to maintain the Provincial Register of Genetic and Biochemical Resources;
- (f) to apply for and obtain all documentation from studies carried out and the results thereof;

(g) to control and monitor all activities connected with access to and conservation of the genetic and biochemical resources covered by this Law.

**Article 5 Agreements.** The Executive shall have the authority to conclude agreements with the national Government, national universities, public scientific research institutes and other provinces for the purpose of developing programs for the conservation of genetic and biochemical resources, the sustainable use of their components, the fair and equitable sharing of the benefits arising out of their utilization and the implementation of access and control mechanisms, in accordance with the restrictions set out in Article 101, paragraph 2, of the Provincial Constitution.

### CHAPTER III

#### PROCEDURE FOR ACCESS TO GENETIC AND BIOCHEMICAL RESOURCES

**Article 6 Access permit.** The implementing authority may, by means of an access permit, authorize natural or legal persons, whether Argentine or foreign, to take research samples of genetic and biochemical resources for scientific purposes, in accordance with the provisions of this Law and the regulations thereunder.

**Article 7 Access contract.** Where a genetic or biochemical resource is accessed for the purpose of commercial or industrial utilization of that resource, an access contract shall be concluded between the applicant and the Executive, in accordance with the provisions of this Law and the regulations thereunder.

**Article 8 Involvement of other agencies.** For the issuance of access permits or the conclusion of access contracts, the implementing authority shall seek the prior approval of the agency that is competent in the use or utilization of the natural resource in question.

**Article 9 Written consent.** For the issuance of access permits or the conclusion of access contracts for the purpose of collecting samples on private property, the prior written authorization of the owner of the property shall be an essential requirement.

**Article 10 Renewal rate.** The activities referred to in Articles 6 and 7 of the present Law may not, under any circumstances, exceed the renewal rate of the natural resources under analysis, on the basis of the precautionary principle and the *in dubio pro natura* principle.

**Article 11 Fee and royalties.** For all access permits and contracts issued under the present Law, the provincial government shall be paid, in the case of access permits, a fee in the amount established in the regulations and, in the case of access contracts, a royalty of at least twenty per cent (20%) of the gross income tax base, in accordance with the criterion of fair and equitable sharing in the benefits derived from such permits and contracts.

Article 12 Guarantee. Prior to the issuance of access permits or conclusion of access contracts, the interested party shall furnish the provincial government with sufficient guarantees, which shall be set out in the regulations, with a view to ensuring faithful compliance with the obligations entered into.

Article 13 Affidavit. Any information provided to the implementing authority shall have the character of an affidavit.

Article 14 Information. Any access permit or access contract shall establish the obligation to inform the implementing authority of the results and conclusions of the research for which access is granted.

Article 15 Confidentiality. The implementing authority shall treat as confidential information that could be of commercial use to third parties, unless public knowledge of it is necessary in order to protect the interests of society or the environment. To that end, the applicant shall state the grounds for requesting confidentiality, together with a non-confidential summary, which shall form part of the public record. The confidential aspects shall be contained in a classified record in the custody of the implementing authority and may not be disclosed to third parties unless a court order is made to the contrary.

#### CHAPTER IV

##### PENALTY REGIME

Article 16 Referral. Any natural or legal person who or which carries out activities provided for in the present Law shall be subject to the control and penalty regime set out in Law No. 1875 (TO Resolution No. 592), title III: Penalty regime.

#### CHAPTER V

##### PROVINCIAL REGISTER OF GENETIC AND BIOCHEMICAL RESOURCES

Article 17 Establishment. The Provincial Public Register of Genetic and Biochemical Resources is hereby established; its operation shall fall within the sphere of competence of the implementing authority. Access permits, access contracts, and programs and agreements that are granted or concluded in respect of genetic and/or biochemical resources shall be entered in the Register. Studies and work carried out in relation to the purpose of this Law shall also be recorded in the Register.

The data contained in the Register may be designated for public access in the cases provided for in Article 15 of the present Law.

CHAPTER VI

SUPPLEMENTARY PROVISIONS

Article 18 Annex-Glossary. The glossary set out in annex I shall be an integral part of the present Law.

Article 19 Regulations. The Executive shall issue regulations for the implementation of the present Law within ONE HUNDRED AND EIGHTY (180) days of its promulgation.

Article 20 Transitional provision. Any person who or which, at the time of enactment of the present Law, is engaged in activities covered by this regime shall be obliged to report these activities within SIXTY (60) days of the Law's entry into force and to comply with the regulations established by the implementing authority.

Article 21 The present Law shall be transmitted to the Executive.

DONE at the Meeting Hall of the Honorable Provincial Legislature of Neuquén on October 27, 2005.

(Signed) Federico Guillermo Brollo (President)  
Graciela L. Carrión de Chrestía (Secretary)  
Honorable Legislature of Neuquén

GLOSSARY

**Genetic resource:** Any material of plant or animal origin, fungi or micro-organisms containing functional units of heredity.

**Biochemical resource:** Any material derived from plants, animals, fungi or micro-organisms that has specific characteristics, special molecules or clues for designing them.

**Distinctive feature:** Genetic and biochemical resources constitute a distinctive feature of the habitat to which they belong, independent of the biological resources which contain them and the land on which they are found.

**Access to genetic and biochemical resources:** The act of obtaining samples from elements of biodiversity in ex-situ or in-situ conditions for the purposes of bioprospecting.

**Biodiversity:** The variability in the population of living organisms from all sources, whether terrestrial, aerial, marine or aquatic ecosystems or other ecological complexes. Biological diversity is defined in terms of ecosystems, species and genes, and includes diversity within species, between species and of the ecosystems of which they are part.

**Bioprospecting:** The systematic search for, classification of and research relating to new sources of chemical compounds, genes, proteins, micro-organisms and other products found in living organisms.

**Research sample:** Portion of the research universe containing all the characteristics and attributes of that universe.

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