

WILD LIFE PROTECTION ACT

(Prepared by Chandrashekar U. SFM)

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INTRODUCTION

The wild life laws have a long history and is the culminative result of an increasing awareness of the compelling need to restore the catastrophic ecological imbalances introduced by the depredations inflicted on nature by human being. The earliest codified law can be traced to 3rd Century B.C. when Ashoka, the King of Maghadha, enacted a law in the matter of preservation of wild life and environment. But, the first codified law in India which heralded the era of laws for the wild life and protection was enacted in the year 1887 by the British and was titled as the Wild Birds Protection Act, 1887 (10 of 1887). This Act enabled the then Government to frame rules prohibiting the possession or sale of any kinds of specified wild birds, which have been killed or taken during the breeding season. Again the British Government in the year 1912 passed the Wild Birds and Animals Protection Act, 1912 (8 of 1912) as the Act of 1887 proved to be inadequate for the protection of wild birds and animals. The Act of 1912 was amended in the year 1935 by the Wild Birds and Animals Protection (Amendment) Act, 1935 (27 of 1935).

After the Second World War the freedom struggle for India started taking its shape and wild life was relegated to the background. But after independence, the Constituent Assembly

in the Draft Constitution placed "Protection of Wild Birds and Wild Animals" at entry No.20 in the State List and the State Legislature has been given power to legislate.

It was not till late 1960's that the concern for the depleting wild finally aroused.

ACT 53 OF 1972

The first comprehensive legislation relating to protection of wild life was passed by the Parliament and it was assented by the President on 9th September, 1972 and came to be known as The Wild Life (Protection) Act, 1972 (53 of 1972).

An Act to provide for the protection of 1[wild animals, birds and plants] and for matters connected therewith or ancillary or incidental thereto. 2[* * *]

CHAPTER I

PRELIMINARY

1. Short title, extent and commencement. (1) This Act may be called Wild Life (Protection) Act, 1972.

3[(2) It extends to the whole of India except the state of Jammu and Kashmir.]

3) It shall come into force in a State or Union Territory to which it extends, 4[* * *] on such date as the Central Government may, by

notification, appoint, and different dates may be appointed for different provisions of this Act or for different States or Union territories.

2. Definitions.-In this Act, unless the context otherwise requires,-

(1) "animal" includes amphibians, birds, mammals and reptiles and their young, and also includes, in the cases of birds and reptiles, their eggs;

(2) "animal article" means an article made from any captive animal or wild animal, other than vermin, and includes an article or object in which the whole or any part of such animal 5[has been used, and ivory imported into India and article made therefrom];

6[* * *]

(4) "Board" means the Wild Life Advisory Board constituted under sub-section (1) of section 6;

(5) "captive animal" means any animal, specified in Sechedule I, Schedule II, Schedule III or Schedule IV, which is captured or kept or bred in captivity;

6[* * *]

(7) "Chief Wild Life Warden" means the person appointed as such under clause (a) of sub-section 4.

7[(7A) "circus" means an establishment, whether stationary or mobile, where animals are kept or used wholly or mainly for the purpose of performing tricks or manoeuvres;]

(8) "closed area" means the area which is declared under sub-section (1) of section 37 to be closed to hunting;

(9) "Collector" means the chief officer in charge of the revenue administration of a district;

(10) "commencement of this Act", in relation to-

(a) a state, means commencement of this Act in that State,

(b) any provision of this Act, means the commencement of that provision in the concerned State;

(11) "dealer" means any person who carries on the business of buying and selling any captive animal article, trophy, uncured trophy 1[meat or specified plant];

(12) "Director" means the person appointed as Director of Wild Life Preservation under clause (a) sub-section (1) of section 3;

2[(12A) "Forest Officer" means the Forest Officer appointed under clause (2) of section 2 of the Indian Forest Act, 1927;]

3[* * *]

(14) "Government property" means any property referred to in section 39; 2[or section 17H;]

(15) "habitat" includes land, water or vegetation which is the natural home of any wild animal;

(16) "hunting", with its grammatical variations and cognate expressions, includes,-

(a) capturing, killing, poisoning, snaring and trapping of any wild animal and every attempt to do so,

(b) driving any wild animal for any of the purposes specified in sub-clause (a),

(c) injuring or destroying or taking any part of the body of any such animal or, in the case of wild birds or reptiles, damaging the eggs of such birds or reptiles or disturbing the eggs or nests of such birds or reptiles;

Hunting includes trapping of birds as held in the decision in the case of **Chief Forest Conservator (Wild Life) v/s. Nisaar Khan – (2003) 4 SCC 595.**

(17) "land" includes canals, creeks and other water channels, reservoirs, rivers, streams and lakes, whether artificial or natural, 1[marshes and wetlands and also includes boulders and rocks];

(18) "licence" means a licence granted under this Act;

2[(18A)] "lives stock" includes buffaloes, bulls, bullocks, camels, cows, donkeys goats, horses, mules, pigs, sheep, yaks and also their young;]

- (19) "manufacturer" means a manufacturer of animal articles;
- (20) "meat" includes blood, bones, sinew, eggs, fat and flesh, whether raw or cooked, of any wild animal, other than vermin;
- (21) "National Park" means an area declared, whether under section 35 of section 38, or deemed, under sub-section (3) of section 66, to be declared, as a National Park;
- (22) "notification" means a notification published in the Official Gazette;
- (23) "permit" means a permit granted under this Act or any rule made thereunder;
- (24) "person" includes a firm;
- (25) "prescribed" means by rules made under this Act;
- 1[(25A) "recognised zoo" means a zoo recognised under section 38H;
- (25B) "reserve forest" means the forest declared to reserved by the State Government under section 20 of the Indian Forest Act, 1927 (16 of 1927);]
- (26) "sanctuary" means an area declared, whether under section 2[26A] or section 66, to be declared as wild life sanctuary;
- 2[(27) "specified plant" means any plant specified in Schedule VI;]

(29) "State Government", in relation to a Union territory, means the Administrator of the Union territory appointed by the President under article 239 of the Constitution;

(30) "taxidermy", with its grammatical variations and cognate expressions, means the curing, preparation or preservation of trophies;

1[(30A) "territorial waters" shall have the same meaning as in section 3 of the Territorial Waters, Continental Shelf, Exclusive Economic Zoo and other Maritime Zones Act, 1976 (80 of 1976);]

(31) "trophy" means the whole or any part of any captive animal or wild animal, other than vermin, which has been kept or preserved by any means, whether artificial or natural, and includes-

(a) rugs, skins and specimens of such animal mounted in whole or in part through a process of taxidermy, and
(b) antler, horn, rhinoceros horn, hair, feather, nail, tooth, musk, eggs and nests;

(32) "uncured trophy" means the whole or any captive animal or wild animal, killed wild animal, ambergris, musk and other animal products];

(33) "vehicle" means any conveyance used for movement on land, water or air and includes buffalo, bull, bullock, camel, donkey, elephant, horse and mule;

(34) "vermin" means any wild animal specified in Schedule V;

(35) "weapon" includes ammunition, bows and arrows, explosives, firearms, hooks, knives, nets, poison, snares and traps and any instrument or apparatus capable of anaesthetizing, decoying, destroying, injuring or killing an animal;

(36) "wild animal" means any animal found wild in nature and includes any animal specified in Schedule I, Schedule II, Schedule III, Schedule IV, Schedule V, wherever found;

(37) "wild life" includes any animal, bees, butterflies, crustacea, fish and moths; and aquatic or land vegetation which form part of any habitat;

(38) "Wild Life Warden" means the person appointed as such under clause (b) of sub-section (1) of section 4;

1[(39) "zoo" means an establishment, whether stationary or mobile, where captive animals are kept for exhibition to the public but does not include a circus and an establishment of a licensed dealer in captive animal.

CHAPTER II

AUTHORITIES TO BE APPOINTED OR CONSTITUTED UNDER THE ACT

3. Appointment of Director and other officers.- (1) The Central Government may, for the purposes of this Act, appoint,-

- (a) A Director of Wild Life Preservation;
- (b) Assistant Directors of Wild Life Preservation; and
- (c) such other officers and employees as may be necessary.

(2) In the performance of his duties and exercise of his powers by or under this Act, the Director shall be subject to such general or special directions, as the Central Government may, from time to time, give.

(3) The Assistant Directors of Wild Life Preservation and other officers and employees appointed under this section shall be subordinate to the Director.

4. Appointment of Life Warden and other officers.- (1) The State Government may, for the purposes of this Act, appoint,-

- (a) a Chief Wild Life Warden;
- (b) Wild Life Wardens; 1[* * *]
- 2[(bb) one Honorary Wild Life Warden in each district; and]
- (c) such other officers and employees as may be necessary.

(2) In the performance of his duties and exercise of his powers by or under this Act, the Chief Wild Life Warden shall be subject to such general or special directions, as the State Government may, from time to time, give.

(3) 3[The Wild Life Warden, the Honorary Wild Life Warden] and other officers and employees appointment under this section shall be subordinate to the Chief Wild Warden.

5. power to delegate.- (1) The Director may, with the previous approval of the Central Government , by order in writing, delegate all or any of his powers and duties under this Act to any officer subordinate to him subject to such conditions, if any, as may be specified in the order.

(2) The Chief Wild Life Warden may, with the previous approval of the State Government by order in writing, delegate all or any of his powers and duties under this Act, except those under clause (a) of sub-section (1) of section 11, to any officer subordinate to him subject to such conditions, if any, as may be specified in the order.

(3) Subject to any general or special direction given or condition imposed by the Director of the Chief Wild Life Warden, any person authorised by the Director or the Chief Wild Life Warden to exercise any powers, may exercise those powers in the same manner and to the same effect as if they had conferred on that person directly by this Act and not by way of delegation.

COMMENTS

Sub-section (2) of section 5 of the Wild Life (Protection) Act, 1972 gives power to the concerned authority to delegate his powers to any of his subordinate officers. Therefore, it could not be said that another person except the Chief Wild Life Warden or such other officer who has been authorised by the State Government can file a complaint upon which cognizance can be taken; Jagdish Singh v.State of Bihar, (1985) Cri LJ 1314 (Pat).

6. Constitution of Wild Life Advisory Board.-(1) The State Government, or in the case of a Union territory, the Administrator, shall, as soon as may be after the commencement of this Act, constitute a Wild Life Advisory Board consisting of the following members namely :-

(a) the Minister in charge of forests in the State or Union territory, or, if there is no such Minister, the Chief Secretary to the Government, or, as the case may be, the Chief Secretary to the Government of the Union territory, who shall be the Chairman;

(b) two members of the State Legislature or, in the case of a Union territory having a Legislature, two members of the Legislature of the Union territory, as the case may be;

(c) Secretary to the State Government, or the Government of the Union territory, in charge of forests;

1[(d) the Forest officer in charge of the State Forest Department

by whatever designation called, ex officio;]
 (e) an officer to be nominated by the Director;
 (f) Chief Wild Life Warden, ex officio;
 [(g) officers of the State Government not exceeding five;
 (h) such other persons, not exceeding ten, who, in the opinion of the State Government, are interested in the protection of wild life, including the representatives of tribals not exceeding three.]

2[(1A) The State Government may appoint a Vice-Chairman of the Board from amongst the members referred to in clauses (b) and (h) of sub-section (1)].

(2) The State Government shall appoint 1[the Forest Officer in charge of the State Forest Department].

(3) The term of office of the members of the Board referred to in clause (g) of sub-section (1) and the manner of filling vacancies among them shall be such as may be prescribed.

(4) The members shall be entitled to receive such allowances in respect of expenses incurred in the performance of their duties as the State Government may prescribe.

7. Procedure to be followed by the Board.- (1) The Board shall meet at least twice a year at such place as the State Government may direct.

(2) The Board shall regulate its own procedure (including the quorum).

(3) No act or proceeding of the Board shall be invalid merely by reason of the existence of any vacancy therein or any defect in the constitution thereof or any irregularity in the procedure of the Board not affecting the merits of the case.

8. Duties of Wild Life Advisory Board.- It shall be the duty of the Wild Life Advisory Board to advise the State Government,-

(a) in the selection of areas to be declared as sanctuaries, National Parks 1[***] and closed areas and the administration thereof;

2[(b) in formulation of the policy for protection and conservation of the wild life and specified plants;]

(c) in any matter relating to the amendment of any Schedule; 3[* * * *]

4[(cc) in relation to the measures to be taken for harmonising the needs of the tribals and other dwellers of the forest with the protection and conservation of wild life; and]

(d) in any other matter connected with the protection of wild life which may be referred to it by the State Government.

CHAPTER III

HUNTING OF WILD ANIMALS

9. Prohibition of hunting.- No person shall hunt any wild animal specified in Schedule I, II, III and IV except as provided under section 11 and section 12.]

COMMENTS

Section 9 of the Act says that no person shall "hunt" any wild animal specified in Schedule I, Elephant is included in Schedule I; State of Bihar v. Murad Ali Baig, AIR 1989 SC 1.

11. Hunting of wild animals to be permitted in certain cases.- (1) Notwithstanding anything contained in any other law for the time being in force and subject to the provisions of Chapter IV,-

(a) the Chief Wild Life Warden may, if he is satisfied that any wild animal specified in Schedule I has become dangerous to human life or is so disabled or diseased as to be beyond recovery, by order in writing and stating the reasons therefore, permit any person to hunt such animal or cause such animal to be hunted;

(b) the Chief Wild Life Warden or the authorised officer may, if he is satisfied that any wild animal specified in Schedule II, Schedule III, or Schedule IV has become dangerous to human life or to property (including standing crops on any land) or is so disabled or diseased as to be beyond recovery, by order in writing and stating the reasons therefore, permit any person to hunt such animal or cause such animal to be hunted.

(2) The killing or wounding in good faith of any wild animal in defence of oneself or any other person shall not be an offence: Provided that nothing in this sub-section shall exonerate any person who, when such defence becomes necessary, was

committing any act in contravention of any provisions of this Act or any rule or order made thereunder.

(3) Any wild animal killed or wounded in defence of any person shall be Government property.

COMMENTS

To decide whether in killing an animal the accused acted in self defence or not, the nature and ferocity of the animal will be relevant. On the basis of the facts and circumstances of the case there can be no doubt that the accused acted in defence of his life and his act did commensurate with defence. Thus in this case of killing the tiger in good faith in defence of oneself it can not be said that the accused was committing any offence prior to shooting the tiger that charged at him. Therefore, the impugned order of conviction and sentence is contrary to the provisions of section 11 of the Act and as such it is liable to be set aside; **Tilak Bahadur Rai v. State of Arunachal Pradesh, 1979 Cri LJ 1404.**

12. Grant of permit for special purposes.-Notwithstanding anything contained elsewhere in this Act, it shall be lawful for the Chief Wild Life Warden, to grant 1[* * *] a permit, by an order in writing stating the reasons therefore, to any person, on payment of such fees as may be prescribed, which shall entitle the holder of such permit to hunt subject to such conditions as may be specified therein, any wild animal specified in such permit, for the purpose of,-

- (a) education;
- (b) scientific research;
- (bb) scientific Management.

Explanation.- For the purposes of clause (bb), the expression, "Scientific management" means-

(i) translocation of any wild animal to alternative suitable habitat;
or

(ii) population management of wildlife without killing or poisoning or destroying any wild animal;]

3[(c) Collection of specimens-

(i) for recognised zoos subject to the permission under section 38-I or

(ii) for museums and similar institutions;

(d) derivation, collection or preparation of snake-venom for the manufacture of life-saving drugs:]

Provided that no such permit shall be granted-

- (a) in respect of any wild animal specified in Schedule I, except with the previous permission of the Central Government, and
- (b) in respect of any other wild animal, except with the previous permission of the State Government.]

CHAPTER IIIA

PROTECTION OF SPECIFIED PLANTS

17A. Prohibition of picking , uprooting, etc. of specified plant.- Save as otherwise provided in this Chapter, no person shall-

- (a) wilfully pick, uproot, damage, destroy, acquire or collect any specified plant from any forest land and any area specified, by notification, by the Central Government;
- (b) possess, sell, offer for sale, or transfer by way to gift or otherwise, or transport any specified plant, whether alive or dead, or part or derivative thereof;

Provided that nothing in this section prevent a member of a Scheduled tribe, subject to the provisions of Chapter IV, from picking, collecting or possessing in the district he resides any specified plant or part or derivative thereof for his bona fide personal use.

17B. Grants of permit for special purposes.- The Chief Wild Life Warden may, with the previous permission of the State Government, grant to any person a permit to pick, uproot, acquire or collect from a forest land or the area specified under section 17 A or transport, subject to such conditions as may be specified plant for purpose of-

- (a) education;
- (b) scientific research;
- (c) collection, preservation and display in a herbarium of any scientific institution; or
- (d) propagation by a person or an institution approved by the Central Government in this regard.

17C. Cultivation of specified plants without licence

prohibited.- (1) No person shall cultivate a specified plant except under and in accordance with a licence granted by the Chief Wild Life Warden or any other officer authorised by the State Government in this behalf:

Provided that nothing in this section shall prevent, who immediately before the commencement of the Wild Life (Protection) (Amendment) act, 1991, was cultivating a specified plant from carrying on such cultivation for a period of six months from such commencement or where he has made an application within that period for the grant of a licence to him, until the licence is granted to him or he is informed in writing that a licence cannot be granted to him.

(2) Every licence granted under this section shall specify the area in which and the conditions, if any, subject to which the licensee shall cultivate a specified plant.

17D. Dealing in specified plants without licence prohibited.-

(1) No person shall, except under and in accordance with a licence granted by the Chief Wild Life Warden or any other officer authorised by the State Government in this behalf, commence or carry on business or occupation as a dealer in a specified plant or part or derivate thereof :

Provided that nothing in this section shall prevent a person, who immediately before the commencement of the Wild Life (Protection) (Amendment) Act, 1991, was carrying on such business or occupation, from carrying on such business or occupation for a period of sixty days from such commencement, or where he has made an application within that period for the grant of a licence to him, until the licence is granted to him or he is informed in writing that a licence cannot be granted to him.

(2) Every licence granted under this section shall specify the premises in which and the conditions, if any, subject to which the licensee shall carry on his business.

17E. Declaration of stock.- (1) Every person cultivating, or dealing in, a specified plant or part or derivative thereof shall, within thirty days from the date of commencement of the Wild Life (Protection) (Amendment) Act, 1991 declare to the Chief Wild Life Warden or any other officer authorised by the State Government in his behalf, his stocks of such plants and part or

derivative thereof, as the case may be, on the date of such commencement.

(2) The provisions of sub-sections (3) to (8) (both inclusive) of section 44, section 45, section 46 and section 47 shall, as far as may be, apply in relation to an application and a licence referred to in section 17C and section 17D as they apply in relation to the licence or business in animals or animal articles.

17F. Procession, etc., of plants by license.-No licensee under this Chapter shall-

(a) keep in his control, custody or possession-

(i) any specified plant, or part or derivative thereof in respect of which a declaration under the provisions of section 17E has to be made but has not been made;

(ii) any specified plant, or part or derivative thereof which has not been lawfully acquired under the provisions of this Act or any rule or order made thereunder;

(b) (i) pick, uproot, collect or acquire any specified plant, or

(ii) acquire, receive, keep in his control or possession, or sell, offer for sale or transport any specified plant or part or derivative thereof, except in accordance with the conditions subject to which the licence has been granted and such rules as may be made under this Act.

17G. Purchase, etc. of specified plants.- No person shall purchase, receive or acquire any specified plant or part or derivative thereof otherwise than from a licensed dealer:

Provided that nothing in this section shall apply to any person referred to in section 17B.

17H. Plants to be Government property.-(1) Every specified plant or part or derivative thereof, in respect of which any offence against this Act or any rule order made thereunder has been committed, shall be the property of the State Government, and, where such plant or part or derivative thereof has been collected or acquired from a sanctuary or National Park declared by the Central Government, such plant or part or derivative thereof shall be the property of the Central Government.

(2) The provisions of sub-sections (2) and (3) of section 39 shall, as far as may be, apply in relation to the specified plant or part or derivative thereof or they apply in relation to wild animals and articles referred to in sub-section (1) of that section.

CHAPTER IV

SANCTUARIES, NATIONAL PARKS AND CLOSED AREAS

Sanctuaries

18. Declaration of sanctuary.- 2[(1) The State Government may, by notification, declare its intention to constitute any area comprised within any reserve forest or the territorial waters as a sanctuary if it considers that such area is of adequate ecological, faunal, floral, geomorphological, natural or zoological significance, for the purpose of protecting, propagating or developing wild life or its environment.]

(2) The notification referred to in sub-section (1) shall specify, as nearly as possible, the situation and limits of such area.

Explanation.-For the purposes of this section it shall be sufficient to describe the area by roads, rivers, ridges or other well-known intelligible boundaries.

COMMENTS

(i) The purpose of the notification declaring the area as Game Reserve under the Rajasthan Wild Animal and Birds Protection Act, 1951; or the declaration of the area as a sanctuary under the notification dated 1.1.1975 declaring the area as protected forest under the Rajasthan Forest Act, 1953 is to protect the

Forest Wealth and Wild Life of the areas; **Tarun Bharat Sangh, Alwar v. Union of India, AIR 1992 SC 514.**

(ii) The respondents are entitled to declare any area other than area comprised with any reserve forest or territorial waters as a sanctuary as per the provisions of section 18 of the Act, but that can be done only after following the provisions contained in the Act. The respondents can take follow up action for evicting persons from the area falling within the declared sanctuary in accordance with the provisions as contained in CHAPTER IV of the Act. None of these things has been found to be followed by the respondents in passing the orders prejudicially affecting the petitioners. Therefore, the impugned orders are not sustainable in law and accordingly they deserve to be quashed; **Jaladhar Chakma v. Deputy Commisioner, Aizwal, Mizoram, AIR1983 Gau 18.**

19. Collector to determine rights.- 3[When a notification has been issued under section 18] the controller shall inquire into, and determine, the existence, nature and extent of the rights of any person in or over the land comprised within the limits of the sanctuary.

20. Bar of accrual of rights.-After the issue of a notification under section 18, no right shall be acquired in, on or over the land comprised within the limits of the area specified in such notification, except by testamentary or intestate.

21. Proclamation by Collector.- When a notification has been issued under section 18, the collector shall publish in the regional language in every town and village in or in the neighbourhood of the area comprised therein, a proclamation-

(a) Specifying, as nearly as possible, the situation and the limits of the sanctuary; and

(b) Requiring any person, claiming any right mentioned in section 19, to prepare before the Collector, within two months from the date of such proclamation, a written claim in the prescribed form, specifying the nature and extent of such right with necessary details and the amount and particulars of compensation, if any, claimed the respect thereof.

22. Inquiry by collector.- The Collector shall, after service of the prescribed notice upon the claimant, expeditiously inquire into-

(a) the claim preferred before him under clause (b) of section 21, and

(b) the existence of any right mentioned in section 19 and not claimed under clause (b) of section 21, so far as the same may be ascertainable from the records of the State Government and the evidence of any person acquainted with the same.

23. Powers of Collector.-For the purpose of such inquiry, the Collector may exercise the following powers, namely:-

(a) the power to enter in or upon any land and to survey, demarcate and make a map of the same or to authorise any other officer to do so;

(b) the same powers as are vested in a civil court for the trial of suits.

24. Acquisition of rights.- (1) In the case of a claim to a right in or over any land referred to in section 19, the Collector shall pass an order admitting and rejecting the same in whole or in part,

(2) If such claim is admitted in whole or in part, the Collector may either-

(a) exclude such land from the limits of the proposed sanctuary, or

(b) proceed to acquire such land or rights, except where by an agreement between the owner of such land or holder of rights and the Government, the owner or holder of such rights has agreed to surrender his rights to the Government, in or over such land, and on payment of such compensation, as is provided in the Land Acquisition Act, 1894.

1[(c) allow, in consultation with the Chief Wild Life Warden, the continuation of any right of any person in or over any land within the limits of the sanctuary.

25. Acquisition proceedings.- (1) For the purpose of acquiring such land, or rights in or over such land,-

(a) the Collector shall be deemed to be a Collector, proceeding under the Land Acquisition Act, 1894;

(b) the claimant shall be deemed to be a person interested and appearing before him in pursuance of a notice given under section 9 of that Act;

(c) the provision of the sections, preceding section 9 of that Act, shall be deemed to have been compiled with;

(d) where the claimant does not accept the award made in his favour in the matter of compensation, he shall be deemed, within the meaning of section 18 of the Act, to be a person interested who has not accepted the award, and shall be entitled to proceed to claim relief against the award under the provisions of Part III of that Act;

(e) the Collector, with the consent of claimant, or the court, with the consent of both the parties, may award compensation in land or money or partly in land and partly in money; and

(f) in the case of the stoppage of a public way or a common pasture, the Collector may, with the previous sanction of the State Government, provide for an alternative public way or common pasture, as far as may be practicable or convenient.

(2) The acquisition under this Act of any land or interest therein shall be deemed to be acquisition for a public purpose.

26. Delegation of Collector's powers.-The State Government may, by general or special order, direct that the powers exercisable or function to be performed by the Collector under sections 19 to 25 (both inclusive) may be exercised and performed by such other officer as may be specified in the order.

1[26A. Declaration of area as sanctuary.-(1) When-

(a) a notification has been issued under section 18 and the period for preferring claims has elapsed, and all claims, if any, made in relation to any land in an area intended to be declared as a sanctuary, have been disposed of by the State Government; or
(b) any area comprised within any reserve forest or any part of the territorial waters, which is considered by the State Government to be of adequate ecological faunal floral geomorphological, natural or zoological significance for the purpose of protecting, propagating or developing wild life or its environment, is to be included in a sanctuary, the State Government shall issue a notification specifying the limits of the area which shall be comprised within the sanctuary and declare that the said area shall be sanctuary on and from such date as may be specified in the notification:

Provided that where any part of the territorial waters is to be so included, prior concurrence of the Central Government shall be obtained by the State Government:

Provided further that the limits of the area of the territorial waters to be included in the sanctuary shall be determined in consultation with the Chief Naval Hydrographer of the Central Government and after taking adequate measures to protect the occupational interest of the local fishermen.

(2) Notwithstanding anything contained in sub-section (1), the right of innocent passage of any vessel or boat through the territorial waters shall not be affected by the notification issued under sub-section (1).

(3) No alteration of the boundaries of a sanctuary shall be made except on a resolution passed by the Legislature of the state.]

27. Restriction on entry in sanctuary.- (1) No person other than,-

(a) a public servant on duty,

(b) a person who has been permitted by the Chief Wild Life Warden or the authorised officer to reside within the limits of the sanctuary,

(c) a person who has any right over immovable property within the limits of the sanctuary,

(d) a person passing through the sanctuary along a public highway, and

(e) the dependents of the person referred to in clause (a), clause (b) or clause (c), shall enter or reside in the sanctuary, except under and in accordance with the conditions of a permit granted under section 28.

(2) Every person shall, so long as he resides in the sanctuary, be bound-

(a) to prevent the commission, in the sanctuary, of an offence against this Act;

(b) where there is reason to believe that any such offence against this Act has been committed in such sanctuary, to help in discovering and arresting the offender;

(c) to report the death of any wild animal and to safeguard its remains until the Chief Wild Life Warden or the authorised officer takes charge thereof;

(d) to extinguish any fire in such sanctuary of which he has knowledge or information and to prevent from spreading, by any lawful means in his power, any fire within the vicinity of such sanctuary of which he has knowledge or information; or

(e) to assist any Forest Officer, Chief Wild Life Warden, Wild Life Warden or Police Officer demanding his aid for preventing the commission of any offence against this Act or in the investigation of any such offence.

(3) No person shall, with intent to cause damage to any boundary-mark of a sanctuary or to cause wrongful gain as defined in the Indian Penal Code, 1860 (45 of 1860), alter, destroy, more or deface such boundary-mark.

(4) No person shall tease or molest any wild animal or litter the grounds of sanctuary.]

28. Grant of permit.-(1) The Chief Wild Life Warden may, on application, grant to any person a permit to enter or reside in a sanctuary for all or any of the following purposes, namely :-

(a) Investigation or study of wild life and purposes ancillary or incidental thereto;

(b) Photography;

(c) Scientific research;

(d) Tourism;

(e) Transaction of lawful business with any person residing in the sanctuary.

(2) A permit to enter or reside in a sanctuary shall be issued subject to such conditions and on payment of such fee as may be prescribed.

29. Destruction, etc., in a sanctuary prohibited without permit.-No person shall destroy, exploit or remove any wild life

from a sanctuary or destroy or damage the habitat of any wild animal or deprive any wild animal of its habitat within such sanctuary except under and in accordance with a permit granted by the Chief Wild Life Warden and no such permit shall be granted unless the State Government, being satisfied that such destruction, exploitation or removal of wild life from the sanctuary is necessary for the improvement and better management of wild life therein, authorises the issue of such permit.

Explanation.- For the purposes of this section, grazing or movement of live-stock permitted under clause (d) of section 33 shall not be deemed to be an act prohibited under this section.]

30. causing fire prohibited.-No person shall set fire to a sanctuary, or kindle any fire, or leave any fire burning, in such manner as to endanger such sanctuary.

31. Prohibition of entry into sanctuary with weapon.-No person shall enter a sanctuary with any weapon except with the previous permission in writing of the Chief Wild Life Warden or the authorised officer.

32. Ban on use of injurious substances.-No person shall use, in a sanctuary, chemicals, explosives or any other substances which may cause injury to or endanger, any wild life in such sanctuary.

33. Control of sanctuaries.- The Chief Wild Life Warden shall be the authority who shall control, manage and maintain all sanctuaries and for that purpose, within the limits of any sanctuary,-

(a) may construct such roads, bridges, buildings, fences or barrier gates, and carry out such other works as he may consider necessary for the purposes of such sanctuary;

(b) shall take such steps as will ensure the security of wild animals in the sanctuary and the preservation of the sanctuary and wild animals therein;

(c) may take such measures, in the interests of the wild life, as he may consider necessary for the improvement of any habitat;

(d) may regulate, control or prohibit, in keeping with the interests of wild life, the grazing or movement of live-stock

33A. Immunisation of live-stock.- (1) The Chief Wild Life Warden shall take such measures in such manner, as may be prescribed, for immunisation against communicable diseases of the live-stock kept in or within five kilometres of a sanctuary.

(2) No person shall take or cause, to be taken or grazed, any live-stock in a sanctuary without getting it immunised.

34. Registration of certain persons in possession of arms.- (1) Within three months from the declaration of any area as a sanctuary, every person residing in or within ten kilometres of

any such sanctuary and holding a licence granted under the Arms Act, 1959 (54 of 1959), for the possession of arms or exempted from the provisions of that Act and possessing arms, shall apply in such form, on payment of such fee and within such time as may be prescribed, to the Chief Wild Life Warden or the authorised officer, for the registration of his name.

(2) On receipt of an application under sub-section (1) the Chief Wild Life Warden or the authorised officer shall register the name of the applicant in such manner as may be prescribed.

1[(3)No new licences under the Arms Act, 1959 (54 of 1959) shall be granted within a radius of ten kilometres of a sanctuary without the prior concurrence of the Chief Wild Life Warden.

35. Declaration of National Parks.-(1) Whenever it appears to the State Government that an area, whether within a sanctuary or not, is, by reason of its ecological, faunal, floral, geomorphological or zoological association or importance, needed to be constituted as National Park for the purpose of protecting, propagating or developing wild life therein or its environment, it may, by notification, declare its intention to constitute such area as a National Park:

2[Provided that where any part of the territorial waters is proposed to be included in such National Park, the provisions of section 26A shall, as far as may be, apply in relation to the

declaration of a National Park as they apply in relation to the declaration of a sanctuary.]

(2) The notification referred to in sub-section (1) shall define the limits of the area which is intended to be declared as a National Park.

(3) Where any area is intended to be declared as a National park, the provisions of sections 3[19 of 26A (both inclusive except clause (c) of sub-section (2) of section 24)] shall, as far as may be, apply to the investigation and determination of claims, and extinguishment of rights, in relation to any land in such area as they apply to the said matters in relation to any land in a sanctuary.

(4) When the following events have occurred, namely:-

(a) the period for preferring claims has elapsed, and all claims, if any, made in relation to any land in an area intended to be declared as a National Park, have been disposed of by the State Government, and

(b) all rights in respect of lands proposed to be included in the National Park, have become vested in the State Government, the State Government shall publish a notification specifying the limits of the area which shall be comprised within the National Park and declare that the said area shall be National Park on and from such date as may be specified in the notification.

(5) No alteration of the boundaries of a National Park shall be made except on a resolution passed by the Legislature of the State.

(6) No person shall destroy, exploit or remove any wild life from a National Park or destroy or damage the habitat of any wild animal or deprive any wild animal of its habitat within such National Park except under and in accordance with a permit granted unless the State Government, being satisfied that such destruction, exploitation or removal of wild life therein, authorises the issue of such permit.

(7) No grazing of any 1[live-stock] shall be permitted in a National Park and no live-stock] shall be allowed to enter therein except where such live-stock] is used as a vehicle by a person authorised to enter such National Park.

(8) The provisions of sections 27 and 28, sections 30 to 32 (both inclusive), and clauses (a), (b) and (c) of 2[section 33, section 33 A] and section 34 shall, as far as may be apply in relation to a National Park as they apply in relation to a sanctuary.

36. Regarding conservation of forest and wild life in Eco sensitive zone of Bhadra Tiger Reserve, our High Court in the case of **Bhadra Wild Life Trust v/s. State Governement of Karnataka** issued direction to form constituting Conservation Reserve

Management Committee in terms of **Section 36 D of the Act in WP No. 53985/2018 dated: 19.07.2019.**

37. Declaration of closed area.-

(1) The State Government may, by notification, declare any area closed to hunting for such period as may be specified in the notification.

(2) No hunting of any wild animal shall be permitted in a closed area during the period specified in the notification referred to in sub-section (1).

Sanctuaries or National Parks declared by Central Government

38. Power of Central Government to declare areas as sanctuaries or National Parks.-

(1) Where the State Government leases or otherwise transfers any area under its control, not being an area within a sanctuary, to the Central Government, the Central Government may, if it is satisfied that the conditions specified in section 18 are fulfilled in relation to the area so transferred to it, declare such area, by notification, to be a sanctuary and the provisions of 5[sections 18 of 35] (both inclusive), 54 and 55 shall apply in relation to such sanctuary as they apply in relation to a sanctuary declared by the State Government.

(2) The Central Government may, if it is satisfied that the conditions specified in section 35 are fulfilled in relation to any area referred to in sub-section (1), whether or not such area has been declared, to be a sanctuary by the Central Government or the State Government, declare such area, by notification, to be a National Park and the provisions of sections 35, 54 and 55 shall apply in relation to such National Parks as they apply in relation to a National Park declared by the State Government.

(3) In relation to a sanctuary or National Park declared by the Central Government, the powers and duties of the Chief Wild Life Warden under the sanctions referred to in sub-sections(1) and (2), shall be exercised and discharged by the Director or by such other officer as may be authorised by the Director in this behalf and references, in the sections aforesaid, to the State Government shall be construed as references to the Central Government and reference therein to the Legislature of the State shall be construed as a reference to Parliament.

The Apex Court in the case of **T.N. Godavarman Thirumulpad v/s. Union of India and others** reported in **(2011) 13 SCC 57** permitted for the establishment of new zoo as prayed for keeping in mind the protection of environment.

Our High Court by **Suo Moto Case, decided on 25.05.2009 - 2009 4 KCCR 2360**, directed the State Government to create and replace and promote eco friendly

technology to preserve the wild animals especially elephants, an account of death of some elephants in Mysore Forest Area.

In earlier decision in the same case the Hon'ble Apex Court issued certain interim direction by modifying its earlier order – (1997) 5 SCC 760.

CHAPTER IV

CENTRAL ZOO AUTHORITY AND RECOGNISATION OF ZOOS

38A. Constitution of Central Zoo Authority.-

(1) The Central Government shall constitute a body to be known as the Central Zoo Authority (hereinafter in this Chapter referred to as the Authority), to exercise the powers conferred on, and to perform the functions assigned to it under this Act.

(2) The Authority shall consists of-

(a) Chairperson;

(b) Such number of members not exceeding ten; and

(c) Member-secretary, to be appointed by the Central Government.

38B. Term of office and conditions of service of Chairperson and members, etc.-

(1) The chairperson and every member shall hold office for such period, not exceeding three years, as may be specified by the Central Government in this behalf.

(2) The chairperson or a member may by writing under his hand addressed to the Central Government, resign from the office of chairperson or, as the case may be, of the member.

(3) The Central Government shall remove a person from the office of chairperson or member referred to in sub-section (2) if that person-

(a) becomes an undischarged insolvent;

(b) gets convicted and sentenced to imprisonment for an offence which in the opinion of the Central Government involves moral turpitude;

(c) becomes of unsound mind and stands so declared by a competent court;

(d) refuses to act or becomes incapable of acting;

(e) is, without obtaining leave of absence from the authority, absent from three consecutive meetings of the Authority; or

(f) in the opinion of the Central Government has so abused the position of chairperson or member as to render that person's continuance in office detrimental to the public interest:

Provided that no person shall be removed under this clause unless that person has been given a reasonable opportunity of being heard in the matter.

(4) A vacancy caused under sub-section (2) or otherwise shall be filled by fresh appointment.

(5) The salaries and allowances and other conditions of appointment of chairperson, members and member-secretary of the Authority shall be such as may be prescribed.

(6) The Authority shall, with the previous sanction of the Central Government, employ such officers and other employees as it deems necessary to carry out the purposes of the Authority.

(7) The terms and conditions of service of the officers and other employees of the Authority shall be such as may be prescribed.

(8) No act or proceeding of the Authority shall be questioned or shall be invalid on the ground merely of the existence of any vacancies or defect in the constitution of the Authority.

38C. Functions of the Authority.-The Authority shall perform the following functions, namely:-

(a) specify the minimum standards for housing, upkeep and veterinary care of the animals kept in a zoo;

(b) evaluate and assess the functioning of zoos with respect to the standards or the norms as may be prescribed;

(c) recognise or derecognise zoos;

- (d) identify endangered species of wild animals for purposes of captive breeding and assigning responsibility in this regard to zoo;
- (e) co-operate the acquisition, exchange and loaning of animals for breeding purposes;
- (f) ensure maintenance of stud-books of endangered species of wild animals bred in captivity;
- (g) identify priorities and themes with regard to display of captive animals in a zoo;
- (h) co-ordinate training of zoo personnel in India and outside India;
- (i) co-ordinate research in captive breeding and educational programmes for the purposes of zoos;
- (j) provide technical and other assistance to zoos for their proper management and development on scientific lines;
- (k) perform such other functions as may be necessary to carry out the purposes of this Act with regard to zoos.

38D. Peocedure to be regulated by the Authority.-

- (1) The Authority shall meet as and when necessary and shall meet at such time and place as the chairperson may think fit.
- (2) The Authority shall regulate its own procedure.

(3) All orders and decisions of the Authority shall be authenticated by the Member-Secretary in this behalf.

38E. Grants and loans to Authority and Constitution of Fund.-

(1) The Central Government may, after due appropriation made by Parliament by law in this behalf, make to the Authority grants and loans of such sums of money as that Government may consider necessary.

(2) There shall be constituted a Fund to be called the Central Zoo Authority and there shall be credited thereto any grants and loans made to the Authority by the Central Government, all fees and charges received by the Authority under this Act and all sums received by the Authority from such other sources as may be decided upon by the Central Government.

(3) The Fund referred to in sub-section (2) shall be applied for meeting salary, allowances and other remuneration of the members, officers and other employees of the Authority and the expenses of Authority in the discharge of its functions under this Chapter and expenses on objects and for purposes authorised by this Act.

(4) The Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

(5) The accounts of the Authority shall be audited by the Comptroller and Auditor-General at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Authority to the Comptroller and Auditor-General.

(6) The Comptroller and Auditor-General and any person appointed by him in connection with the audit of the accounts of the Authority under this Act shall have the same rights and privilege and the authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of the Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Authority.

(7) The accounts of the Authority, as certified by the Comptroller and Auditor-General or any other person appointed by him in this behalf, together with the audit report thereon, shall be forwarded annually to the Central Government by the Authority.

38F. Annual report.- The Authority, shall prepare in such form and at such time, for each financial year, as may be prescribed, its annual report, giving a full account of its activities during the previous financial year and forward a copy thereof to the Central Government.

38G. Annual report and audit report to be laid before Parliament.-The Central Government shall cause the annual report together with a memorandum of action taken on the recommendations contained therein, in so far as they relate to the Central Government, and the reasons for the non-acceptance, if any, of any of such recommendations and the audit report to be laid as soon as may be after the reports are received before each House of Parliament.

38H. Recognition of zoos.-

(1) No zoo shall be operated without being recognised by the Authority : Provided that a zoo being operated immediately before the date of commencement of the Wild Life (Protection) (Amendment) Act, 1991 may continue to operate without being recognised for a period of 1[eighteen months from the date of such commensement] and if the application seeking recognition is made within that period, the zoo may continue to be operated until the said application is finally decided or withdrawn and in case of refusal for a further period of six months from the date of such refusal.

- (2) Every application for recognition of a zoo shall be made to the Authority in such form and on payment of such fee as may be prescribed.
- (3) Every recognition shall specify the conditions, if any, subject to which the applicant shall operate the zoo.
- (4) No recognition to a zoo shall be granted unless the Authority, having due regard to the interests of protection and conservation of wild life, and such standards, norms and other matters as may be prescribed, is satisfied that recognition should be granted.
- (5) No application for recognition of a zoo shall be rejected unless the applicant has been given a reasonable opportunity of being heard.
- (6) The Authority may, for reasons to be recorded by it, suspend or cancel any recognition granted under sub-section(4):
- (7) An appeal from an order refusing to recognise a zoo under sub-section (5) or an order suspending or cancelling a recognition under sub-section (6) shall lie to the Central Government.
- (8) An appeal under sub-section (7) shall be preferred within thirty days from the date of communication to the applicant of the order appealed against:

Provided that the Central Government may admit any appeal preferred after the expiry of the period aforesaid if it satisfied that the appellant had sufficient cause for not preferring the appeal in time.

38I. Acquisition of animals by a zoo.- Subject to the other provisions of this Act no zoo shall acquire or transfer any wild animal specified in Schedule I and Schedule II except with the previous permission of the Authority.

38J. Prohibition of teasing, etc., in a zoo.- No person shall tease, molest, injure or feed any animal or cause disturbance to the animals by noise or otherwise or litter the grounds in a zoo.]

CHAPTER V

TRADE OR COMMERCE IN WILD ANIMALS, ANIMAL ARTICLE AND TROPHIES

39. Wild animals, etc., to be Government property.-(1) Every-

(a) wild animal, other than vermin, which is hunted under section 11 or sub-section (1) of section 29 or sub-section (6) of section 35 or kept or 1[bred in captivity or hunted] in contravention of any provision of this Act or any rule or order made thereunder or found dead, or killed by 2[* * *] mistake; and
(b) animal article, trophy or uncured trophy or meat derived from any wild animal referred to in clause (a) in respect of which any offence against this Act or any rule or order made thereunder has been committed;

1[(c) ivory imported into India an article made from such ivory in respect of which any offence against this Act or any rule or order made thereunder has been committed;

(d) vehicle, vessel, weapon, trap or tool that has been used for committing an offence and has been seized under the provision of this Act,]

shall be the property of the State Government, and, where such animal is hunted in a sanctuary or National Park declared by the Central Government, such animal or any animal article, trophy, uncured trophy or meat 2[derived from such animal, or any vehicle, vessel, weapon, trap or tool used in such hunting] shall be the property of the Central Government.

(2) Any person who obtains, by any means, the possession of Government property, shall, within forty-eight hours from obtaining such possession, make a report as to the obtaining of such possession to the nearest police station or the authorised officer and shall, if so required, hand over such property to the officer-in-charge of such police station or such authorised officer, as the case may be.

(3) No person shall, without the previous permission in writing of the Chief Wild Life Warden or the authorised officer-

(a) Acquire or keep in his possession, custody or control, or

(b) transfer to any person, whether by way of gift, sale or

otherwise,

or

(c) destroy or damage, such Government property.

COMMENTS

The wild animals which are dead in a private land, the owner of the land is entitled to claim ownership of the dead animal. The body of a wild animal which is found on a particular land becomes the absolute property of the owner of the soil even if killed by a trespasser, unless, the trespasser chased the animal on the land of one person and killed it on the land of another. The dead elephant in question had not been chased or pursued by the forest authorities, but it had been shot by some unknown persons and it voluntarily quit the reserve forest and entered the private land where it died. In this view, the order of the lower Appellate Court can not be sustained; **B.Natwall Valid v. State of Tamil Nadu, AIR 1979 Mad 218.**

In the decision reported in **(2007) 7 SCC 334** in the case of **State of U.P. Vs Lalloo Singh**, it is held that

“In view of the clear language of sub-section (1) of Section 50, Section 457 of the Code has no application. But there is another provision which also is relevant i.e. Section 451 of the Code that relates to the order for custody and disposal of the property pending trial in certain cases. It provides that when any property is produced before any criminal court, during

any enquiry or trial, the court may make such order as it thinks fit for proper custody of such property pending the conclusion of the enquiry or the trial. It also provides for action to be taken when the property is subject to speedy and natural decay. If the court otherwise thinks it expedient to do so, the court may after recording such evidence as it thinks fit may pass orders for sale of the property or disposal thereof”.

In the decision reported in **2008 AIR SCW 787 "State of M.P. v.MadhukarRao"** it is held that “Criminal P.C. (2 of 1974), S.451 - Wild Life - Disposal Of Property - Magistrate - Release of vehicle - Interim release of vehicle - Power of Magistrate to make order under S. 451 of Code - Vehicle was seized under Wild Life (Protection) Act - Provisions of Ss. 39(1)(d) and 50 of Act and amendments made thereunder do not affect Magistrate's power to direct release during pendency of trial - S. 39(1)(d) of Act making articles seized Govt. property does not come into play till accusation is found true by competent Court”.

2002 AIR SCW 1865, Distinguished.

Regarding furnishing of Bank guarantee for the purpose of release of vehicle is held to be a reasonable condition that can be imposed while ordering release of vehicle. Refer the

decision in the case of **K. Ekambaram Reddy v/s. Deputy Conservator of Forest, Bengaluru – (2007) 5 Kar LJ 112.**

Regarding confiscation of forest produce, instruments used for commission of offence, the Apex Court has held by referring to Indian Forest Act, 1927 and the amendment brought by Madhya Pradesh Government keeping in mind the decision in the case of **Ramkumar Sahoo v/s. State of Madhya Pradesh** has held that the M.P. Government has brought stringent rules in view of the protection of environment. The Hon'ble Apex Court has elaborately dealt with various provisions of Cr.P.C., Wild Life Protection Act etc., and rendered judgement in the case of **State of Madhya Pradesh v/s. Uday Singh** with connected cases reported in **(2020) 12 SCC 733.**

40. Declarations.-

(1) Every person having at the commencement of this Act the control, custody or possession of any captive animal specified in Schedule I or Part II of Schedule II, or any uncured trophy derived from such animal or salted or dried skins of such animal or the musk of a musk deer or the horn of a rhinoceros, shall, within thirty days from the commencement of this Act, declare to the Chief Wild Life Warden or the authorised officer the number and description of the animal, or article of the foregoing

description under his control, custody or possession and the place where such animal or article is kept.

(2) No person shall, after the commencement of this Act, acquire, receive, keep in his control, custody or possession, sell, offer for sale or otherwise transfer or transport any animal specified in Schedule I or Part II of Schedule II or any uncured trophy or meat derived from such animal, or the salted or dried skins of such of animal or the musk of a musk deer or the horn of a rhinoceros, except with the previous permission in writing of the Chief Wild Life Warden or the authorised officer.

1[(3) Nothing in sub-section (1) or sub-section (2) shall apply to a recognised zoo subject to the provisions of section 381 or to a public museum.

(4) The State Government may, by notification, require any person to declare to the Chief Wild Life Warden or the authorised officer any animal article or trophy (other than a musk of a musk deer or horn of a rhinoceros) or salted or dried skins derived from an animal specified in Schedule I or Schedule II in his control, custody or possession in such form, in such manner, and within such time, as may be prescribed.

41. Inquiry and preparation of inventories.-

(1) On receipt of a declaration made under section 40, the Chief Wild Life Warden or the authorised officers may, after such notice, in such manner and at such time, as may be prescribed,-

(a) enter upon the premises of a person referred to in section 40;

(b) make inquiries and prepare inventories of animal articles, trophies, uncured trophies, salted and dried skins and captive animals specified in Schedule I and Part II of Schedule II and found thereon; and

(c) affix upon the animals, animal articles, trophies or uncured trophies identification marks in such manner as may be prescribed.

(2) No person shall obliterate or counterfeit any identification mark referred to in this Chapter.

42. Certificate of ownership.- The Chief Wild Life Warden may, for the purposes of section 40, issue a certificate of ownership in such form, as may be prescribed, to any person who, in his opinion, is in lawful possession of any wild animal or any animal article, trophy, uncured trophy and may, where possible, mark, in the prescribed manner, such animal article, trophy or uncured trophy for purposes of identification.

43. Regulation of transfer of animal, etc.-

(1) Subject to the provisions of sub-section (2), sub-section (3) and sub-section (4), a person (other than a dealer) who does not possess a certificate of ownership shall not-

(a) sell offer for sale or transfer whether by way of sale, gift or otherwise, any wild animal specified in Schedule I or Part II of Schedule II or any captive animal belonging to that category or any animal article, trophy, uncured trophy, uncured trophy or meat derived therefrom;

(b) make animal articles containing part or whole of such animal;

(c) put under a process of taxidermy an uncured trophy of such animal, except with the previous permission in writing of the Chief Wild Life Warden or the authorised officer.

(2) Where a person transfers or transports from the State in which he resides to another State or acquires by transfer from outside the State any such animal, animal article, trophy or uncured trophy as is referred to in sub-section (1) in respect of which he has a certificate of ownership, he shall, within thirty days of the transfer or transport, report the transfer or transport to the Chief Wild Life Warden or the authorised officer within whose jurisdiction the transfer or transport is effected.

(3) No person who does not possess a certificate of ownership shall transfer or transport from one State to another State or acquire by transfer from outside the State any such animal,

animal article, trophy or uncured trophy as is referred to in sub-section (1) except with the previous permission in writing of the Chief Wild Life Warden or the authorised officer within whose jurisdiction the transfer or transport is to be effected.

(4) Before granting any permission under sub-section (1) or sub-section (3), the Chief Wild Life Warden or the authorised officer shall satisfy himself that the animal or article referred to therein has been lawfully acquired.

(5) While permitting the transfer or transport of any animal article, trophy or uncured trophy, as is referred to in sub-section (1), the Chief Wild Life Warden or the authorised officer-

(a) shall issue a certificate of ownership after such inquiry as he may deem fit;

(b) shall, where the certificate of ownership existed in the name of the previous owner, issue a fresh certificate of ownership in the name of the person to whom the transfer has been effected;

(c) may affix an identification mark on any such animal, animal article, trophy or uncured trophy.

(6) Nothing in this section shall apply-
1[(a) to tail feather of peacock and the animal articles or trophies made therefrom;

2[(b) to any transaction entered into by a recognised zoo subject to the provisions of section 38I or by a public museum with any other recognised zoo or public museum.

44. Dealings in trophy and animal articles without licence prohibited.-

(1) 3[Subject to the provisions of Chapter VA, no person shall, except under, and in accordance with, a licence granted under sub-section (4)]

(a) commence or carry on the business as-

(i) a manufacturer of or dealer in, any animal article; or

(ii) a taxidermist; or

(iii) a dealer in trophy or uncured trophy; or

(iv) a dealer in captive animals; or

(v) a dealer in meat or

(b) cook or serve meat in any eating-house;5(c) derive, collect or prepare, or deal in, snake venom:

Provided that nothing in this sub-section shall prevent a person, who immediately before the commencement of this Act was carrying on the business occupation specified in this sub-section, from carrying on such business or occupation for a

period of thirty days from such commencement, or where he has made an application within that period for the grant of a licence to him, until the licence is granted to him or he is informed in writing that a licence cannot be granted to him:

1[Provided further that nothing in this sub-section shall apply to the dealers in tail feathers of peacock and articles made therefrom and the manufacturers of such articles.]

Explanation.-For the purposes of this section, "eating-house" includes a hotel, restaurant or any other place where any eatable is served on payment, whether or not such payment is separately made for such eatable or is included in the amount charged for board and lodging.

(2) Every manufacturer of, or dealer in, animal article, or dealer in captive animals, trophies or uncured trophies, or every taxidermist shall, within fifteen days from the commencement of this Act, declare to the Chief Wild Life Warden his stocks of animals articles captive animals, trophies and uncured trophies as the case may be as on the date of such declaration and the Chief Wild Life Warden or the authorised officer may place an identification mark on every animal article, captive animal trophy or uncured trophy as the case may be.

(3) Every person referred to in sub-section (1) who intends to obtain a licence, shall 2[* * *] make an application to the Chief Wild Life Warden or the authorised officer.

(4) (a) Every application referred to in sub-section (3) shall be

made in such form and on payment of such fee as may be prescribed to the Chief Wild Life Warden or the authorised officer.

3[(b) No licence referred to in sub-section (1) shall be granted unless the Chief Wild Life Warden, or the authorised officer having regard to antecedents and previous experience of the applicant, the implication which the grant of such licence would have in the status of wildlife to such other matters as may be prescribed in this behalf and after making such inquiry in respect of those matters as may think fit, is satisfied that the licence should be granted.

(5) Every licence granted under this section shall specify the premises in which and the conditions, if any subject to which the licence shall carry on his business.

(6) Every licence granted under this section shall-

(a) be valid for one year from the date of its grant;

(b) not be transferable; and

(c) be renewable for a period not exceeding one year at a time.

(7) No application for the renewal of a licence shall be rejected unless the holder of such licence has been given a reasonable opportunity of presenting his case and unless the Chief Wild Life Warden or the authorised officer is satisfied that-

- (i) the application for such renewal has been made after the expiry of the period specified therefor, or
- (ii) any statement made by the applicant at the time of the grant or renewal of the licence was incorrect or false in material particulars, or
- (iii) the applicant has contravened any term or condition of the licence or any provision of this Act or any rule made thereunder, or
- (iv) the applicant does not fulfil the prescribed conditions.

(8) Every order granting or rejecting an application for the grant or renewal of a licence shall be made in writing.

(9) Nothing in the foregoing sub-sections shall apply in relation to vermin.

COMMENTS

Section 44 prohibit any dealing in trophies without a licence; **Pyarelal v. State (Delhi Administration), AIR 1995 SC 1159.**

45. Suspension or cancellation of licences.- Subject to any general or special order of the State Government, the Chief Wild Life Warden or the authorised officer may, for reason to be recorded by him in writing suspend or cancel any licence granted or renewed under section 44:

Provided that no such suspension or cancellation shall be made except after giving the holder of the licence a reasonable opportunity of being heard.

46. Appeal.-

(1) As appeal from an order refusing to grant a renew a licence under section 44 or an order suspending or cancelling a licence under section 45 shall lie-

(a) if the order is made by the authorised officer, to the Chief Wild Life Warden; or

(b) if the order is made by the Chief Wild Life Warden, to the State Government.

(2) In the case of an order passed by the Chief Wild Life Warden under clause (a) of sub-section (1), a second appeal shall lie to the State Government.

(3) Subject as aforesaid, every order passed in appeal under this section shall be final.

(4) An appeal under this section shall be preferred within thirty days from the date of communication, to the applicant, of the order appealed against:

Provided that the appealate authority may admit any appeal preferred after the expiry of the period aforesaid if it is

satisfied that the order appellant had sufficient cause for not preferring the appeal in time.

47. Maintenance of records.-A licensee under this Chapter shall-

(a) keep records and submit such returns of his dealings, as may be prescribed,-

(i) to the Director or any other officer authorised by him in this behalf, and

(ii) to the Chief Wild Life Warden or the authorised officer; and

(b) make such records available on demand for inspection by such officers.

48. Purchase of animal, etc., by licensee.- No licensee under this Chapter shall -

(a) keep in his control, custody or possession,-

(i) any animal, animal articles, trophy or uncured trophy in respect of which a decision under the provisions of sub-section (2) of section 44 has to be made but has not been made;

(ii) any animal or animal article, trophy, uncured trophy or meat which has not been lawfully acquired under the provisions of this Act or any rule or order made thereunder;

(b) (i) capture any wild animal, or

(ii) acquire, receive, keep in his control, custody or possession, or sell, offer for sale or transport, any captive animal specified in Schedule I or Part II of Schedule II or any animal article, trophy, uncured trophy or meat derived therefrom or serve such meat, or put under a process of taxidermy or make animal article containing part or whole of such animal, except in accordance with such rules as may be made under this Act:

Provided that where the acquisition or possession, control or custody of such animal or animal article, trophy or uncured trophy entails the transfer or transport from one State to another, no such transfer or transport shall be effected except with the previous permission in writing of the Director or any other officer authorised by him in this behalf:

Provided further that no such permission under the foregoing proviso shall be granted unless the Director or the officer authorised by him is satisfied that the animal or article aforesaid has been lawfully acquired.

1[48A. Restriction on transportation of wild life.- No person shall accept any wild animal (other than vermin), or any animal article, or any specified plant or part of derivative thereof, for transportation except after exercising due care to ascertain that permission from the Chief Wild life Warden or any other officer authorised by the State Government in this behalf has been obtained for such transportation.]

49. Purchase of captive animal, etc., by a person other than licensee.- No person shall purchase, receive or acquire any captive animal, wild animal, other than vermin, or any animal article, trophy, uncured trophy or meat derived therefrom otherwise than from a dealer or from a person authorised to sell or otherwise transfer the same under this Act:

2[Provided that nothing in this section shall apply to a recognised zoo subject to the provisions of section 38I or to public museum.]

CHAPTER VA

PROHIBITION OF TRADE OR COMMERCE IN TROPHIES, ANIMAL ARTICLES, ETC. DERIVED FROM CERTAIN ANIMALS

49A. Definitions.- In this Chapter,-

(b) "scheduled animal article" means an article made from any scheduled animal and includes an article or object in which the whole or any part of such animal
1[has been used but does not include tail feather of peacock, an article or trophy made therefrom and snake venom or its derivative;]

(c) "specified date" means-

(i) in relation to a scheduled animal on the commencement of the Wild Life (Protection) (Amendment) Act, 1986, the date of expiry of two months from such commencement; 2[* * *]

(ii) in relation to any animal added or transferred to Schedule I

or Part II of Schedule II at any time after such commencement, the date of expiry of two months from such addition or transfer; 3[(iii) in relation to ivory imported into India or an article made from such ivory, the date of expiry of six months from the commencement of the Wild Life (Protection) (Amendment) Act, 1991.]

49B. Prohibition of dealings in trophies, animal articles, etc., derived from schedule animals.-

(1) Subject to the other provisions of this section, on and after the specified date, no person shall,-

(a) commence or carry on the business as-

(i) a manufacturer of, or dealer in scheduled animal articles; or

4[(ia) a dealer in ivory imported into India or articles made therefrom or a manufacturer of such articles; or

(ii) a taxidermist with respect to any scheduled animals or any parts of such animals; or

(iii) a dealer in trophy or uncured trophy derived from any scheduled animal; or

(iv) a dealer in any captive animals being scheduled animals; or

(v) a dealer in meat derived from any scheduled animal; or

(b) cook serve meat derived from any schedule animal animal in eating-house.

Explanation.-For the purposes of this sub-section, "eating-house" has the same meaning as the Explanation below sub-section (1) of section 44.

(2) Subject to the other provisions of this section, no licence granted or renewed under section 44 before the specified date shall entitle the holder thereof or any other person to commence or carry on the business referred to in clause (a) of sub-section (1) of this section or occupation referred to in clause (b) of the sub-section _____ date.

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2) where the Central Government is satisfied that it is necessary or expedient so to do in the public interest, it may, by general or special order published in the official Gazette, exempt, for purposes of export, any corporation owned or controlled by the Central Government (including a Government company within the meaning of section 617 of the companies Act, 1956 (1 to 1956) or any society registered under the Societies Registration Act, 1860 (21 of 1860) or any other law for the time being in force, wholly or substantially financed by the Central Government from the provisions of sub-sections (1) and (2).

(4) Notwithstanding anything contained in sub-section (1) or sub-section (2), but subject to any rules which may be made in this behalf, a person holding a licence under section 44 to carry on the business as a taxidermist may put under a process of taxidermy any scheduled animal or any part thereof,-

- (a) for or on behalf of the Government or any corporation or society exempted under sub-section (3), or
- (b) With the previous authorisation in writing of the Chief Wild Life Warden, for and on behalf of any person for educational or scientific purposes.

49C. Declaration by dealers.-

(1) Every person carrying on the business or occupation referred to in sub-section (1) of section 49B shall, within thirty days from the specified date, declare to the Chief Wild Life Warden or the authorised officer,-

(a) his stocks, if any, as at the end of the specified date of-

(i) scheduled animal articles;

(ii) scheduled animals and parts thereof;

(iii) trophies and uncured trophies derived from scheduled animals;

(iv) captive animals, being scheduled animals;

1[(v) ivory imported into India or articles made therefrom;]

(b) the place or places at which the stocks mentioned in the declaration are kept; and

(c) the description of such items, if any, of the stocks mentioned in the declaration which he desires to retain with himself for his bona fide personal use.

(2) On receipt of a declaration under sub-section (1), the person making the declaration under sub-section (1), the Chief Wild Life Warden or the authorised officer may take all or any of the measures specified in section 41 and for this purpose the provisions of section 41 shall so far as may be, apply.

(3) Where, in a declaration made under sub-section (1), the person making the declaration expresses his desire to retain with himself any of the items of the stocks specified in the declaration for his bona fide use, the Chief Wild Life Warden, with the prior approval of the Director, may, if he is satisfied that the person is in lawful possession of such items, issue certificates of ownership in favour of such person with respect to all, or as the case may be, such of the items as in the opinion of the Chief Wild Life Warden, are required for the bona fide personal use of such person and affix upon such items identification marks in such manner as may be prescribed:

Provided that no such item shall be kept in any commercial premises.

(4) No person shall obliterate or counterfeit any identification mark referred to in sub-section (3).

(5) An appeal shall lie against any refusal to grant certificate of ownership under sub-section (3) and the provisions of sub-sections (2), (3) and (4) of section 46 shall, so far as may be, apply in relation to appeals under this sub-section.

(6) Where a person who has been issued a certificate of ownership under sub-section (3) in respect of any item,-

(a) transfers such item of any person, whether by way of gift, sale or otherwise, or

(b) transfers or transports from the State in which he reside to another State any such item, he shall, within thirty days of such transfer or transport, report the transfer or transport to the Chief Wild Life Warden or the authorised officer within jurisdiction the transfer or transport is effected.

(7) No person, other than a person who has been issued a certificate of ownership under sub-section (3) shall, on and after the specified date, keep under his control, sell or offer for sale or transfer to any person 1[any scheduled animal or a scheduled animal article or ivory imported into India or any article made therefrom].]

CHAPTER VI

PREVENTION AND DETECTION OF OFFENCE

50. Power of entry, search, arrest and detention.-

(1) Notwithstanding anything contained in any other law for the time being in force, the Director or any other officer authorised by him in this behalf or the Chief Wild Life Warden or the authorised officer or any forest officer or any police officer not below the rank of a sub-inspector, may, if he has reasonable grounds for believing that any person has committed an offence against this Act,-

(a) require any such person to produce for inspection any captive animal, wild animal, animal article, meat, 2[trophy, uncured trophy-specified plant or part or derivative thereof] in his control, custody or possession, or any licence, permit or other document granted to him or required to be kept by him under the provisions of this Act;

(b) stop any vehicle in order to conduct search or inquiry or enter upon and search any premises, land, vehicle or vessel, in the occupation of such person, and open and search any baggage or other things in his possession;

2[(c) seize any captive animal, wild animal, animal article, meat, trophy or uncured trophy, or any specified plant or part or derivative thereof, in respect of which an offence against this Act

appears to have been committed, in the possession of any person together trap, tool, vehicle, vessel or weapon used for committing any such offence and, unless he is satisfied that such person will appear and answer any charge which may be preferred against him, arrest him without warrant, and detain him:

Provided that where a fisherman residing within ten kilometers of a sanctuary or National Park, inadvertently enters on a boat, not used for commercial fishing, in the territorial waters in that sanctuary or National Park, a fishing tackle or net on such boat shall not be seized.]

1[* * *]

(3) It shall be lawful for any of the officers referred to in subsection (1) to stop and detain any person, whom he sees doing any act for which a licence or permit is required under the provisions of this Act, for the purposes of requiring such person to produce the licence or permit and if such person fails to produce the licence or permit, as the case may be, he may be arrested without warrant, unless he furnishes his name and address, and otherwise satisfies the officer arresting him that he will duly answer any summons or other proceedings which may be taken against him.

2[(3A) Any officer of rank not inferior to that of an Assistant Director of Wild Life Preservation or an Assistant Conservator of Forests, who or whose subordinate, has seized any captive

animal or wild animal under clause (c) of sub-section (1) may give the same for custody on the execution by any person of a bond for the production of such animal if and when so required, before the Magistrate having jurisdiction to try the offence on account of which the seizure has been made.]

(4) Any person detained, or things seized under the foregoing power, shall forthwith be taken before a Magistrate to be dealt with according to law.

(5) Any person who, without reasonable cause, fails to produce anything, which he is required to produce under this section, shall be guilty of an offence against this Act.

(6) Where any 3[meat, uncured trophy, specified plant, or part or derivative thereof] is seized under the provisions of this section, the Assistant Director of Wild Life Preservation or any other officer of gazetted rank authorised by him in this behalf or the Chief Wild Life Warden or the authorised officer may arrange for the sale of the same and deal with the proceeds of sale in such manner as may be prescribed.

(9) Any evidence recorded under clause (d) of sub-section (8) shall be admissible in any subsequent trial before a Magistrate provided that it has been taken in the presence of the accused person.]

The Hon'ble Apex Court in the case of **Mustafa v/s. State of Utter Pardesh and others** reported in **2019 SCC Online SC**

1063 has held that the order of the collector confiscating the vehicle for violation of Sections 60 & 72 held to be proper.

In case of release of vehicle the Court has to impose stringent conditions such as Bank guarantee or deposit as observed in the case of **State of Madhya Pradesh v/s. Madhukarrao**, the Kerala High Court uphold the order of trial Court releasing the vehicle upon furnishing Bank guarantee. Refer the decision in the case of State Rep. by **Forest Range Officer v/s. Iqbal K. reported in 2018 SCC Online Ker 17856.**

The Bombay High Court in the case of **Authorized Officer and Assistant Conservator of Forest v/s. Sudhakar Jisingh Chuhan - 2007 ALL Maharashtra Law Report (Cri) 181** has held that in order to find out whether or not confiscation proceedings have initiated, the magistrate should not proceed to pass any order unless notice is given to Authorised Officer.

Regarding release of property, **the Bombay High Court in the case of State of Maharashtra v/s. Gajanan D. Jambhulkar - 2002 CRLJ 349** has observed that if the material prima facie does not indicate involvement of the vehicle in commission of the offence under the Wild Life Protection Act, the Magistrate would not be justified in ordering the release of vehicle as said vehicle would be liable for forfeiture at the conclusion of trial.

51. Penalties.-

(1) Any person who 1[contravenes any provision of this Act 2[(except Chapter VA and section 38J)] or any rule order and made thereunder or who commits a breach of any of the conditions of any licence or permit granted under this Act, shall be guilty of an offence against this Act, and shall, on conviction, be punishable with imprisonment for a term which may extend to 3[three years] or with fine which may extend to twenty-five thousand rupees or with both:

Provided that where the offence committed is in relation to any animal specified in Schedule I or part II or meat of any such animal or animal article, trophy or uncured trophy derived from such animal or where the offence 5[relates to hunting in, or altering the boundaries of] a sanctuary or a National Park, such offence shall be punishable with imprisonment for a term which shall not be less than 6[three year] but may extend to seven years and also with fine which shall not be less than ten thousand rupees:

Provided further that in the case of a second or subsequent offence of the nature mentioned in this sub-section, the term of imprisonment may extend to seven years and shall not be less than three years and the amount of fine shall not be less than twenty five thousand rupees.

(1A) Any person who contravenes any provisions of Chapter VA, shall be punishable with imprisonment for a term which shall not be less than three year but which may extend to seven years and also with fine which shall not be less than ten thousand rupees.]

(1B) Any person who contravenes the provisions of section 38J shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees, or with both:

Provided that in the case of a second or subsequent offence the term of imprisonment may extend to one year, or with fine which may extend to five thousand rupees.

1-C Any person,, who commits an offence in relation to the core area of a tiger reserve or where the offence relate to hunting in the tiger reserve or altering the boundaries of the tiger reserve, such offence shall be punishable on first conviction with imprisonment for a term which shall not be less than three years but may extend to seven years, and also with fine which shall not be less than fifty thousand rupees but may extend to two lakh rupees; and in the event of a second or subsequent conviction with imprisonment for a term of not less than seven years and also with fine which shall not be less than five lakhs rupees.

1-D: Whoever, abets any offence punishable under sub-section 1-C shall, if the act abetted is committed in consequence of the abetment, be punishable with the imprisonment provided for that offence.

(2) When any person is convicted of an offence against this Act, the court trying the offence may order that any captive animal, wild animal, animal article, trophy, 2[uncured trophy, meat, ivory imported into India or an article made from ivory, any specified plant, or part or derivative thereof] in respect of which the offence has been committed, and any trap, tool, vehicle, vessel or weapon, used in the commission of the said offence be forfeited to the State Government and that any licence or permit, held by such person under the provisions of this Act, be cancelled.

(3) Such cancellation of licence or permit or such forfeiture shall be in addition to any other punishment that may be awarded for such offence.

(4) Where any person is convicted of an offence against this Act, the court may direct that the licence, if any, granted to such person under the Arms Act, 1959 (54 of 1954), for possession of any arm with which an offence against this Act has been committed, shall be cancelled and that such person shall not be eligible for a licence under the Arms Act, 1959 (54 of 1954), for a period of five years from the date of conviction.

(5) Nothing contained in section 360 of the Code of Criminal Procedure, 1973 (2 of 1974) or in the Probation of offenders Act, 1958 (20 of 1958) shall apply to a person convicted of an offence with respect to hunting in a sanctuary or a National Park or of an offence against any provision of Chapter VA unless such person is under eighteen years of age.

COMMENTS

(i) The accused was convicted for possession of lion shaped trophies of Chinkara skins meant for sale without licence. But there was no evidence whatsoever as to when the accused came into possession of these trophies. The proviso to section 51 of the Act providing minimum sentence of 6 months is not attracted; *Pyarelal v.State (Delhi Administration)*, AIR 1995 SC 1159.

(ii) To convict a person under the Act, it is necessary to prove that he had either killed or attempted to kill one of the animals or birds mentioned in the Schedules. It is no offence for a person holding a licence to go about with a gun in his possession; *Batan Singh v. Emperor*, 29 Cri LJ 238 (Lah).

In the decision reported in **AIR 1989 SUPREME COURT 1 "State of Bihar v. Murad Ali Khan**, it is held that

“Cognizance of an offence against the "ACT" can be taken by a Court only on the complaint of the officer mentioned in S.55. The person who lodged complaint in the instant case

claimed to be such an officer. In such circumstances even if the jurisdictional police purported to register a case for an alleged offence against the Act, S.210(1) of Cr.P.C. would not be attracted having regard to the position that cognizance of such an offence can only be taken on the complaint of the officer mentioned in that section. Even where a Magistrate takes cognizance of an offence instituted otherwise than on a police report and an investigation by the police is in progress in relation to some offence, the two cases do not lose their separate identity. The section seeks to obviate the anomalies that might arise from taking cognizance of the same offence more than once. But, whereas here, cognisance can be taken only in one way and that on the complaint of a particular statutory functionary, there is no scope or occasion for taking cognizance more than once and, accordingly, S.210 of Cr.P.C. has no role to play. Therefore in the circumstances it could not be said that the Magistrate acted without jurisdiction in taking cognizance of the offence and ordering issue of process against the accused, merely because an investigation by the police was in progress in relation to the same offence. Cr. Misc. Nos. 258 and 259 of 1987(R), D/-18-2-1987 (Pat), and Cri Misc. No. 223 of 1987, D/-13-2-1987 (Pat), Reversed”

51 A. Bail:When any person accused of, the commission of any offence relating to Schedule I or Part 11 of Schedule 11 or offences relating to hunting inside the boundaries of National Park or Wildlife sanctuary. or altering the boundaries of such

parks and I.' sanctuaries, is arrested under the provisions of the Act, then notwithstanding anything contained in the Code of Criminal Procedure, 1973 no such person who had been previously convicted of an offence under this Act shall, be released on bail unless-

(a) the Public Prosecutor has been given an opportunity of opposing the release on bail; and

(b) where the Public Prosecutor opposes the application, the Court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.”

52. Attempts and abetment.-Whoever attempts to contravene, or abets the contravention of, any of the provisions of this Act or of any rule or order made thereunder shall be deemed to have contravened that provision or rule or order, as the case may be.

53. Punishment for wrongful seizure.-if any person, exercising powers under this Act, vexatiously and unnecessarily seizes the property of any other person on the pretence of seizing it for the reasons mentioned in section 50, he shall, on conviction, be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

54. Power to compound offences.-

(1) The Central Government may, by notification, empower the Director of Wild Life Preservation or any other officer and the State Government] may, by notification, empower the Chief Wild Life Warden or any officer of a rank not inferior to that of Deputy Conservator of Forests,-

(a) to accept, from any person against whom a reasonable suspicion exists that he has committed an offence against this Act, payment of a sum of money by way of composition of the offence which such person is suspected to have committed;

(2) On payment of such sum of money or such value, or both, as the case may be, to such officer, the suspected person, if in custody, shall be discharged, and the property, other than Government property, if any, seized, shall be released and no further proceedings in respect of the offence shall be taken against such person.

(3) The officer compounding any offence may order the cancellation of any licence or permit granted under this Act to the offender, or if not empowered to do so, may approach an officer so empowered, for the cancellation of such licence or permit.

(4) The sum of money accepted or agreed to be accepted as composition under sub-section (1) shall, in no case, exceed the sum of twenty five thousand rupees:

Provided that no offence, for which a minimum period of imprisonment has been prescribed in section (1) of section 51, shall be compounded.

In the decision reported in **2011-JT-12-76 = 2011 AIR SCW 6396 -Chief Conservator of Forest Vs J.K.Johnson**, it is held that

a specified officer empowered under Section 54(1) of the 1972 Act as substituted by Act 16 of 2003 to compound offences, has no power, competence or authority to order forfeiture of the seized items on composition of the offence by a person who is suspected to have committed offence against the Act. Our answer to the question framed at the outset is in the negative”.

55. Cognizance of offences.-No court shall take cognizance of any offence against this Act except on the complaint of any person other than-

(a) the Director of Wild Life Preservation or any other officer authorised in this behalf by the Central Government; or

aa) Member secretary , central zoo authority in matters relation to provision of Chapter IVA.

(b) the Chief Wild Life Warden, or any other officer authorised in this behalf by the State Government; or

(c) any person who has given notice of not less than sixty days, in the manner prescribed, of the alleged offence and of his intention to make a complaint to the Central Government or the State Government or the officer authorised as aforesaid.

In the decision reported in **AIR 2002 SUPREME COURT 1691 Moti Lal v. Central Bureau of Investigation**, it is held that

“The Central Bureau of Investigation is authorised to investigate an offence, which is punishable under the Wild Life (Protection) Act, 1972 since S. 50 of Wild Life Act is not a complete Code. The Central Govt. has issued notification dated 21-3-2000 under S. 5 read with S. 6 of the Delhi Special Police Establishment Act empowering the CBI for investigation of the case against the appellants under the Wild Life Act and I.P.C. - The scheme of S. 50 of the Wild Life Act makes it abundantly clear that Police Officer is also empowered to investigate the offences and search and seize the offending articles. For trial of offences, Code of Criminal Procedure is required to be followed and for that

there is no other specific provision to the contrary. Special procedure prescribed is limited for taking cognizance of the offence as well as powers are given to other officers mentioned in S. 50 of Wild Life Act for inspection, arrest, search and seizure as well as recording statement. The power to compound offences is also conferred under S. 54 of the Wild Life Act. S. 51 of Wild Life Act provides for penalties which would indicate that certain offences are cognizable offences meaning thereby police officer can arrest without warrant. Sub-section (5) of S. 51, Wild Life Act provides that nothing contained in S. 360 of the Code of Criminal Procedure or in the Probation of Offenders Act, 1958 shall apply to a person convicted of an offence with respect of hunting in a sanctuary or a national park or of an offence against any provision of Chapter 5-A unless such person is under 18 years of age. The aforesaid specific provisions are contrary to the provisions contained in Code of Criminal Procedure and that would prevail during the trial. However, from this, it cannot be said that operation of rest of the provisions of the Code of Criminal Procedure are excluded.”

In the decision reported in **2004-CrLJ-0-2272, 2004-AIRKantHCR-0-1594-S.Murari Vs State of Karnataka**, it is held that

“Nextly, it is necessary to mention that the provisions of Section 156 of Cr. P. C. make it clear that in respect of cognizable offence, the Police Officer may, without the order of a Magistrate investigate into the case. Such being the case, Section 156 cannot be resorted to with respect to the cases on hand. The learned HCGP made a submission that the provisions of Section 156 of Cr. P. C. could be read even in respect of investigation into a non-cognizable offence by a Police Officer. It is necessary to mention that the statutory provisions are clear. The intention of the legislature could be gathered from the said statutory provisions. If the intention of the legislature was to the effect that the Police Officer had been empowered to investigate the case in respect of cognizable and non-cognizable offences without the permission of the Magistrate, there was no need for provisions of Section 155 at all in Cr. P. C. The fact that provisions of Sections 155 and 156 appear in statute book, it is clear that the intention of the legislature had been to differentiate the investigation of a case in respect of non-cognizable

offence and investigation of a case in respect of cognizable offence. In view of the statutory provisions, it is clear that the learned Magistrate was not at all justified in directing the Range Forest Officer to investigate into the cases. Moreover, the Range forest Officer cannot be deemed to be a Police Officer. In this regard, it is necessary to mention that the provisions of Section 2 (16) of the Karnataka Police Act defines a Police officer as a member of police force appointed or deemed to be appointed under the Act and includes Special or Additional Police officer appointed under Sections 19 and 20 of the Act. The provisions of Sections 19 and 20 of the Act also make it clear that a Range forest Officer cannot be treated as a Police officer”

In another decision, reported in **2008-KCCR-2-1059, 2008-AIRKarR-3-315- S.Bylaiah Vs State, by Bannerghatta Police**, it is held that

“It is pertinent to mention that the Government of Karnataka in exercise of the powers conferred by Section 55 of the Act have issued a notification bearing No. **AFD 104 FWL 73** dated 16. 10. 1973, authorising the following persons to take note of

forest offences under the Act and file complaints in the Court of law:

(i) all the Forest Officers of and above the rank of a forester, (ii) all the Officers of and above the rank of a Sub-Inspector of police, and (iii) all the Revenue Officers of and above the rank of a Revenue inspector.”

Whether Police Officer can file chargesheet against the accused for the offences under the Act. Our High Court in the case of **Ravindra v/s. State of Karnataka** along with connected case reported in **2017 SCC Online Kar 4227** has held that the Court can take cognizance upon a complaint not by way of charge sheet filed by the police. His Lord ship has referred to Section 65 of the Act along with decision in the case of **S. Bylaiah v/s. State by Bannerhattah Police** reported in **ILR 2008 Kar 1892** has come to the conclusion that there is a serious procedural irregularity in filing the chargesheet by the police. This is based upon notification issued by the Government in the said respect.

Our High Court in the case of **Ravi alias Ravindra v/s. S.N. Nayak** reported in **LAWS (Kar) 2019, Pg. 27** has held that Section 22 of the Act, 1957 is mandatory, it

cannot be circumvented under any circumstances and merely because provisions under the Indian Penal Code are invoked against the petitioners, jurisdictional court does not get jurisdiction to try the offences in the absence of a formal complaint by the competent person authorized in this behalf as the Act, 1957 is a special enactment and hence the very initiation of the proceedings has to be quashed in view of non compliance of Section 22 of the Act 1957.

In **Jagdish Krishnaswamy v/s. Forest Kudremukh Wild Life Division - ILR 2013 KAR 2251**, it is held that in order to take cognizance that in particulars in the complaint must disclose the time and date of the incident as is spelt out under section 212 Cr.P.C.

56. Operation of other laws not barred.- Nothing in this Act shall be deemed to prevent any person from being prosecuted under any other law for time being in force, for any act or omission which constitutes an offence against this Act or from being liable under such other law to any higher punishment or penalty than that provided by this Act:

Provided that no person shall be punished twice for the same offence.

57. Presumption to be made in certain cases.-Where, in any prosecution for an offence against this Act, it is established that a person is in possession, custody or control of any captive animal, animal article, meat, trophy, uncured trophy, specified plant, or part or derivative thereof] it shall be presumed, until the contrary is proved, the burden of proving which shall lie on the accused, that such person is in unlawful possession, custody or control of such captive animal, animal article, meat 2[trophy, uncured trophy, specified plant, or part or derivative thereof].

58. Offences by companies.-

(1) Where an offence against this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company as well as company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he

exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence against this Act has been committed by a company and it proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.- For the purposes of this section,-

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

58A. The provisions of this Chapter shall apply only to the following persons, namely: -

(a) every person who has been convicted of an offence punishable under this Act with imprisonment for a term of three years or more;

(b) every associate of a person referred to in clause (a);

(c) any holder (hereafter in this clause referred to as the present holder) of any property which was at any time previously held by a person referred to in clause (a) or clause (b) unless the present holder or, as the case may be, any one who held such property after such person and before the present holder, is or was a transferee in good faith for adequate consideration.

58B. In this Chapter, unless the context otherwise requires, -

(a) “Appellate Tribunal” means the Appellate Tribunal for Forfeited Property constituted under section 58N;

(b) “associate” in relation to a person whose property is liable to be forfeited under this Chapter, includes:

(i) any individual who had been or is managing the affairs or keeping the accounts of such person;

(ii) any association of persons, body of individuals, partnership firm or private company within the meaning of the Companies Act, 1956 of which such person had been or is a member, partner or director;

(iii) any individual who had been or is a member, partner or director of an association of persons, body of individuals, partnership firm or private company referred to in sub-clause (ii) at any time when such person had been or is a member,

partner or director of such association, body, partnership firm or private company;

(iv) any person, who had been or is managing the affairs, or keeping the accounts of any association of persons, body of individuals, partnership firm or private company referred to in sub-clause (iii);

(v) the trustee of any trust, where, -

(1) the trust has been created by such person; or

(2) the value of the assets contributed by such person (including the value of the assets, if any, contributed by him earlier) to the trust amounts on the date on which contribution is made, to not less than twenty per cent. of the value of the assets of the trust on that date;

(vi) where the competent authority, for reasons to be recorded in writing, considers that any properties of such person are held on his behalf by any other person, such other person;

(c) “competent authority” means an officer authorised under section 5813;

(d) “concealment’ means the concealment or disguise of the nature, source, disposition

movement or ownership of property and includes the movement or conversion of such property by electronic transmission or by any other means;

(e) “freezing” means temporarily prohibiting the transfer, conversion, disposition or

movement of property by an order issued under section 58F;

(f) “identifying” includes establishment of proof that the property was derived from, or

used in, the illegal hunting and trade of Wildlife and its products;

(g) ‘Illegally acquired property” in relation to any person to whom this Chapter applies,

means, -

(i) any property acquired by such person, wholly or partly out of or by means of any income, earnings or assets derived or obtained from or attributable to illegal hunting and trade of Wildlife and its products and derivatives;

(ii) any property acquired by such person, for a consideration or by li any means, wholly or partly traceable to

any property referred to in sub-clause~ (i) or the income or earning from such property, and includes-

(A) any property held by such person which would have been, in relation to any previous holder thereof, illegally acquired property under this clause if such previous holder had not ceased to hold it, unless such person or any other person who held the property at any time after such previous holder or, where there are two or more such previous holders, the last of such previous holders is or was a transferee in good faith for adequate consideration;

(B) any property acquired by such person, for a consideration, or by any means, wholly or partly traceable to any property falling under item (A), or the income or earnings therefrom;

(h) “property” means property and assets of every description, whether corporeal or incorporeal, movable or immovable, tangible or intangible and deeds and instruments evidencing title to, or interest in, such property or assets, derived from the illegal hunting and trade of Wildlife and its products;

(i) “relative” means-

(1) spouse of the person;

(2) brother or sister of the person;

(3) brother or sister of the spouse of the person;

(4) any lineal ascendant or descendant of the person;

(5) any lineal ascendant or descendant of the spouse of the person;

(6) spouse of a person referred to in sub-clause (2), sub-clause (3), sub-clause (4) or sub-clause (5);

(7) any lineal descendant of a person referred to in sub-clause (2) or sub-clause (3);

(j) “tracing” means determining the nature, source, disposition, movement, title or ownership of property;

(k) “trust” includes any other legal obligation.

58C. (1) From the date of commencement of this Chapter, it shall not be lawful for any person to whom this Chapter applies to hold any illegally acquired property either by himself or through any other person on his behalf.

(2) Where any person holds such property in contravention of the provisions of sub-section (1), such property shall be liable to be forfeited to the State Government concerned in accordance with the provisions of this Chapter:

Provided that no property shall be forfeited under this Chapter if such property was acquired by a person to whom this

Act applies before a period of six years from the date on which he was charged for an offence relating to illegal hunting and trade of Wild Life and its products;

58D. The State Government may by order published in the Official Gazette, authorise any officer not below the rank of Chief Conservator of Forests to perform the functions of the competent authority under this Chapter in respect of such persons or classes of persons as the State Government may, direct.

58E. (1) An officer not below the rank of Deputy Inspector General of Police duly authorised by the Central Government or as the case may be, the State Government, shall, on receipt of a complaint from the competent authority about any person having illegally acquired property, proceed to take all steps necessary for tracing and identifying any property illegally acquired by such person.

(2) The steps referred to in sub-section (1) may include any inquiry, investigation or survey in respect of any person, place, property, assets, documents, books of account in any bank or financial institution or any other relevant step as may be necessary.

(3) Any inquiry, investigation or survey referred to in sub-section (2) shall be carried out by an officer mentioned in

sub-section (1) in accordance with such directions or guidelines as the competent authority may make or issue in this behalf.

58F. (1) Where any officer conducting an inquiry or investigation under section 5SE has reason to believe that any property in relation to which such inquiry or investigation is being conducted is an illegally acquired property and such property is likely to be concealed, transferred or dealt with in any manner which may result in frustrating any proceeding relating to forfeiture of such property under this Chapter, he may make an order for seizing such property and where it is not practicable to seize such property, he may make an order that such property shall not be transferred or otherwise dealt with, except with the prior permission of the officer making such order, or of the competent authority and a copy of such order shall be served on the person concerned:

Provided that a copy of 'such an order shall be sent to the competent authority within forty-eight hours of its being made.

(2) Any order made under sub-section (1) shall have no effect unless the said order is confirmed by an order of the competent authority within a period of thirty days of its being made.

Explanation - For the purposes of this section, "transfer of property" means any disposition, conveyance, assignment,

settlement, delivery, payment or other alienation of property and, without limiting the generality of the foregoing, includes-

- (a) the creation of a trust in property;
- (b) the grant or creation of any lease, mortgage, charge, easement, licence, power, partnership or interest in property;
- (c) the exercise of a power of appointment, of property vested in any person not the owner of the property, to determine its disposition in favour of any person other than the donee of the power; and
- (d) any transaction entered into by any person with intent thereby to diminish directly or indirectly the value of his own property and to increase the value of the property of any other person.

58G. (1) The State Government may, by order published in the Official Gazette, appoint as many of its officers (not below the rank of Conservator of Forests) as it thinks fit, to perform the functions of an Administrator.

(2) The Administrator appointed under sub-section (1) shall receive and manage the property in relation to which an order has been made under sub-section (1) of section 58F or under section 58-I in such manner and subject to such conditions as may be prescribed.

(3) The Administrator shall also take such measures as the State Government may direct, to dispose of the property, which is forfeited to the State Government.

58H. (1) If having regard to the value of the properties held by any person to whom this Chapter applies, either by himself or through any other person on his behalf, his known sources of income, earnings or assets, and any other information or material available to it as a result of a report from any officer making an investigation under section 58E or otherwise, the competent authority for reasons to be recorded in writing believes that all or any of such properties are illegally acquired properties, it may serve a notice upon such person (hereinafter referred to as the person affected) calling upon him within a period of thirty days specified in the notice to show cause why all or any of such properties, as the case may be, should not be declared to be illegally acquired properties and forfeited to the State Government under this Chapter and in support of his case indicate the sources of his income, earnings or assets, out of which or by means of which he has acquired such property, the evidence on which he relies and other relevant information and particulars.

(2) Where a notice under sub-section (1) to any person specifies any property as being held on behalf of such person by any other person, a copy of the notice shall also be served upon such other person.

58-I. (1) The competent authority may, after considering the explanation, if any, to the show cause notice issued under

section 58H, and the materials available before it and after giving to the person affected and in a case where the person affected holds any property specified in the notice through any other person, to such other person, also a reasonable opportunity of being heard, by order, record a finding whether all or any of the properties in question are illegally acquired properties:

Provided that if the person affected (and in a case where the person affected holds any property specified in the notice through any other person such other person also), does not appear before the competent authority or represent his case before it within a period of thirty days specified in the show cause notice, the competent authority may proceed to record a finding under this sub-section *ex parte* on the basis of evidence available before it.

(2) Where the competent authority is satisfied that some of the properties referred to in the show cause notice are illegally acquired properties but is not able to identify, specifically such properties, then, it shall be lawful for the competent authority to specify the properties which, to the best of its judgment, are illegally acquired properties and record a finding accordingly under sub-section (1) within a period of ninety day s.

(3) Where the competent authority records a finding under this section to the effect that any property is illegally acquired

property, it shall declare that such property shall, subject to the provisions of this Chapter stand forfeited to the State Government free from all encumbrances.

(4) In case the person affected establishes that the property specified in the notice issued under section 58H is not an illegally acquired property and therefore not

liable to be forfeited under the Act, the said notice shall be withdrawn and the property shall be released forthwith.

(5) Where any shares in a company stand forfeited to the State Government under this Chapter, the company shall, notwithstanding anything contained in the Companies Act, 1956 or the article of association of the company, forthwith register the State Government as the transferee of such shares.

58J. In any proceedings under this Chapter, the burden of proving that any property specified in the notice served under section 58H is not illegally acquired property shall be on the person affected.

58K. (1) Where the competent authority makes a declaration that any property stands forfeited to the State Government under Section 58-1 and it is a case where the source of only a part of the illegally acquired property has not been proved to the

satisfaction of the competent authority, it shall make an order giving option to the person affected to pay, in lieu of forfeiture, a fine equal to the market value of such part.

(2) Before making an order imposing a fine under sub-section (1), the person affected shall be given a reasonable opportunity of being heard.

(3) Where the person affected pays the fine due under sub-section (1), within such time as may be allowed in that behalf, the competent authority may, by order revoke the declaration of forfeiture under section 58-1 and thereupon such property -shall stand released.

58L. In the case of any person referred to in sub-clause (vi) of clause (b) of section 58B, if the competent authority, on the basis of the information and materials available to it, for reasons to be recorded in writing believes that any property held in trust is illegally acquired property, it may serve a notice upon the author of the trust or as the case may be, the contributor of the assets out of or by means of which such property was acquired by the trust and the trustees, calling upon them within a period of thirty days specified in the notice, to explain the source of money or other assets out of or by means of which such property was acquired or, as the case may be, the source of money or other assets which were contributed to the trust for acquiring such

property and thereupon such notice shall be deemed to be a notice served under section 58H and all the other provisions of this Chapter shall apply accordingly.

Explanation- For the purposes of this section "illegally acquired property" in relation to any property held in trust, includes

(i) any property which if it had continued to be held by the author of the trust or the contributor of such property to the trust would have been illegally acquired property in relation to such author or contributor.

(ii) any property acquired by the trust out of any contributions made by any person which would have been illegally acquired property in relation to such person had such person acquired such property out of such contributions.

58M. Where after the making of an order under sub-section (1) of section 58F or the issue of a notice under section 58H or under Section 58L, any property referred to in the said order or notice is transferred by any mode whatsoever, such transfer shall, for the purposes of the proceedings under this Chapter, be ignored and if such property is subsequently forfeited to the State Government under section 58A, then, the transfer of such property shall be deemed to be null and void.

58N. (1) The State Government may, by notification in the Official Gazette, constitute an Appellate Tribunal to be called the Appellate Tribunal for Forfeited Property consisting of a

Chairman, and such number of other members (being of the State Government not below the rank of a Principal Secretary to the Government).

As the State Government thinks fit, to be appointed by that Government for hearing appeals against the orders made under section 58F, section 58-1, sub-section (1) of section 5 SK or section 58L.

(2) The Chairman of the Appellate Tribunal shall be a person who is or has been or is qualified to be a Judge of a High Court.

(3) The terms and conditions of service of the Chairman and other members shall be such as may be prescribed.

580. (1) Any person aggrieved by an order of the competent authority made under section 5817, section 584, sub-section (1) of section 58K or section 58L may, within forty-five days from the date on which the order is served on him prefer an 1(appeal to the Appellate Tribunal:

Provided that the Appellate Tribunal may entertain an appeal after the said period of forty-five days, but not after sixty days, from the date aforesaid if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) On receipt of an appeal under sub-section (1), the Appellate Tribunal may, after giving an opportunity of being heard to the appellant, if he so desires, and after making such further inquiry as it deems fit, confirm, modify or set aside the order appealed against.

(3) The Appellate Tribunal may regulate its own procedure.

(4) On application to the Appellate Tribunal and on payment of the prescribed fee, the Appellate Tribunal may allow a party to any appeal or any person authorised in this behalf by such party to inspect at any time during office hours, any relevant records and registers of the Appellate Tribunal and obtain a certified copy or any part thereof.

58P. No notice issued or served, no declaration made, and no order passed under this Chapter shall be deemed to be invalid by reason of any error in the description of the property or person mentioned therein if such property or person is identifiable from the description so mentioned.

58Q. No order passed or declaration made under this Chapter shall be appealable except as provided therein and no civil court shall have jurisdiction in respect of any matter which the Appellate Tribunal or any competent authority is empowered by or under this Chapter to determine, and no injunction shall be

granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Chapter.

58R. The competent authority and the Appellate Tribunal shall have all the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908 in respect of the following matters, namely: -

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of documents;
- (c) receiving evidence on affidavits;
- (d) requisitioning any public record or copy thereof from any court or office;
- (e) issuing commissions for examination of witnesses or documents;
- (f) any other matter, which may be prescribed.

58S. (1) Notwithstanding anything contained in any other law for the time being in force, the competent authority shall have power to require any officer or authority of the Central Government or a State Government or a local authority to furnish information in relation to such persons, on points or matters as in the opinion of the competent authority will be useful for, or relevant to, the purposes of this Chapter.

(2) Every officer referred to in section 58T may furnish *suo motu* any information available with him to the competent authority if

in the opinion of the officer such information will be useful to the competent authority for the purposes of this Chapter.

58T. For the purposes of any proceedings under this Chapter, the following officers shall render such assistance as may be necessary to the Administrator appointed under section 58G, Competent Authority and the Appellate Tribunal, namely: -

- (a) Officers of Police;
- (b) Officers of the State Forest Departments;
- (c) Officers of the Central Economic Intelligence Bureau;
- (d) Officers of the Directorate of Revenue Intelligence;
- (e) such other officers as specified by the State Government in this behalf by notification in the Official Gazette.

58U. (1) Where any property has been declared to be forfeited to the State Government under this Chapter, or where the person affected has failed to pay the fine due under sub-section (1) of section 58K within the time allowed therefore under subsection (3) of that section, the competent authority may order the person affected as well as any other person who may be in possession of the property to surrender or deliver possession thereof to the Administrator appointed under section 58G or to any person duly authorised by him in this behalf within thirty days of the service of the order.

(2) If any person refuses or fails to comply with an order made under sub-section (1), the Administrator may take possession of the property and may for that purpose use such force as may be necessary.

(3) Notwithstanding anything contained in sub-section (2), the Administrator may, for the purpose of taking possession of any property referred to in sub-section (1) requisition the services of any police officer to assist him and it shall be the duty of such officer to comply with such requisition.

58V. With a view to rectifying any mistake apparent from record, the Competent Authority or the Appellate Tribunal, as the case may be, may amend any order made by it within a period of one year from the date of the order:

Provided that if any such amendment is likely to affect any person prejudicially and the mistake is not of a clerical nature, it shall not be made without giving to such person a reasonable opportunity of being heard.

58W. No finding of any officer or authority under any other law shall be conclusive for the purposes of any proceedings under this Chapter.

58X. Any notice or order issued or made under this Chapter shall be served –

(a) by tendering the notice or order or sending it by registered post to the person for whom it is intended or to his agent;

(b) if the notice or order cannot be served in the manner provided in clause (a), by affixing it on a conspicuous place in the property in relation to which the notice or order is issued or made or on some conspicuous part of the premises in which the person for whom it is intended is known to have last resided or carried on business or personally worked for gain.

58Y. Any person who knowingly acquires, by any mode whatsoever, any property in relation to which proceedings are pending under this Chapter shall be punishable with imprisonment for a term which may extend to five years and with fine which may extend to fifty thousand rupees.'

CHAPTER VII

MISCELLANEOUS

59. Officers to be public servants.- Every officer referred to 1[in Chapter II and the chairperson, members, member-secretary and other officers and employees referred to in Chapter IVA] and

every other officer exercising any of the powers conferred by this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860 (45 of 1860).

60. Protection of action taken in good faith.-

(1) No suit, prosecution or other legal proceeding shall lie against any officer or other employee of the Central Government or the State Government of anything which is in good faith done or intended to be done under this Act.

(2) No suit or other legal proceeding shall lie against the Central Government or the State Government or any of its officers or other employees for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act.

2[(3) No suit or other legal proceeding shall lie against the Authority referred to in Chapter IV A and its chairperson, members,, member-secretary, officers and other employees for anything which is in good faith done or intended to be done under this Act.]

3[60A. Reward to persons.-

(1) When a court imposes a sentence of fine or a sentence of which fine forms a part, the court may, when passing judgement, order that the reward be paid a person who renders assistance in

the detection of the offence or the apprehension of the offenders out of the proceeds of fine not exceeding twenty percent. of fine.

(2) When a case is compounded under section 54, the officer compounding may order reward to be paid to a person who renders assistance in the detection of the offence or the apprehension of the offenders out of the sum of money accepted by way of composition not exceeding twenty percent. of such money.

61. Power to alter entries in Schedules.-

(1) The Central Government may, if it is of opinion that it is expedient so to do, by notification, "[add or delete any entry to or from any Schedule] or transfer any entry from one part of Schedule to another Part of the same Schedule or from one Schedule to another.

5[* * *]

(3) On the issue of a notification under sub-section (1) 6[* * *] the relevant Schedule shall be deemed to be altered accordingly, provided that every such alteration shall be without prejudice to anything done or committed to be done before such alteration.

1[* * *]

62. Declaration of certain wild animals to be vermin.- 2[The Central Government] may, by notification, declare any wild animal other than those specified in Schedule I and Part II of

Schedule II to be vermin for any area and for such period as may be specified therein and so long as such notification is in force, such wild animal shall be deemed to have been included in Schedule V.

63. Power of Central Government to make rules.-3[(1) The Central Government may, by notification, make rules for all or any of the following matters, namely:-

(a) conditions and other matters subject to which a licensee may keep any specified plant in his custody or possession under section 17F;

(b) the salaries and allowances and other conditions of appointment of chairperson, members and member-secretary under sub-section (5) of section 38B;

(c) the terms and conditions of service of the officers and other employees of the Central Zoo Authority under sub-section (7) of section 38B;

(d) the form in which the annual statement of accounts of the Central Zoo Authority shall be prepared under sub-section (4) of section 38E;

(e) the form in which and the time at which the annual reports of the Central Zoo Authority shall be prepared under section 38F;

(f) the form in which and the fee required to be paid with the application for recognition of a zoo under sub-section (2) of section 38H;

(g) the standards, norms and other matters to be considered for granting recognition under sub-section (4) of section 38H;

(h) the form in which declaration shall be made under sub-section (2) of section 44;

(i) the matters to be prescribed under clause (b) of sub-section (4) of section 44;

(j) the terms and conditions which shall govern transactions referred to in clause (b) of section 48;

(k) the manner in which notice may be given by a person under clause (c) of section 55;

(l) the manner specified in sub-section (2) of section 64 in so far as they relate to sanctuaries and National Parks declared by the Central Government.]

(2) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should be made, the rule shall be thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

64. Power of State Government to make rules.-

(1) State Government may, by notification, make rules for carrying out the provisions of this Act in respect of matters which do not fall within the purview of section 63.

(2) In particular and without prejudice to the generality of the foregoing power, such rule may provide for all or any of the following matters, namely:-

(a) the term of office of the members of the Board referred to in clause (g)

of sub-section (1) of section 6 and the manner of filling vacancies among them;

(b) allowances referred to in sub-section(4) of section 6;

(c) the forms to be used for any application, certificate, claim, declaration, licence, permit, registration, return or other document, made, granted or submitted under the provisions of this Act and the fees, if any, therefor;

(d) the conditions subject to which any licence or permit may be granted under this Act;

(e) the particulars of the record of wild animals (captured or killed) to be kept and submitted by the licensee;

1[(ee) the manner in which measures for immunisation of live-stock shall be taken;]

(f) regulation of the possession, transfer and the sale of captive animals, meat, animal articles, trophies and uncured trophies;

(g) regulation of taxidermy;

(h) any other matter which has to be, or may be prescribed under this Act.

65. Rights of Scheduled Tribes to be protected.- Nothing in this Act shall affect the hunting rights conferred on the Scheduled Tribes of the Nicobar Islands in the Union territory of Andaman and Nicobar Islands by notification of the Andaman and Nicobar Administration, No. 40/67/F, No. G635, Vol.III, dated the 28th April, 1967.

66. Repeal and savings.-

(1) As from the commencement of this Act, every other Act relating to any matter contained this Act and in force in a State shall, to the extent to which that Act or any provision contained therein corresponds, or is repugnant, to this Act or any provision contained in this Act, stand repealed:

Provided that such repeal shall not,-

(i) affect the previous operation of the Act so repealed, or anything duly done or suffered thereunder;

(ii) affect any right, privilege, obligation or liability acquired, accrued or incurred under the Act so repealed;

(iii) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against the Act so repealed; or

(iv) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture, or punishment as aforesaid; and any investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture and punishment may be imposed, as if the aforesaid Act had not been repealed.

(2) Notwithstanding such repeal,-

(a) anything done or any action taken under the Act so repealed (including any notification, order, certificate, notice or receipt issued, application made, or permit granted) which is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act, as if this Act were in force at the time such thing was done or action was taken, and shall continue to be in force, unless and until superseded by anything done or any action taken under this Act;

(b) every licence granted under any Act so repealed and in force immediately before the commencement of this Act shall be deemed to have been granted under the corresponding provisions of this Act and shall, subject to the provisions of this Act, continue to be in force for the unexpired portion of the period for which such licence had been granted.

(3) For the removal of doubts, it is hereby declared that any sanctuary or National Park declared by a State Government under any Act repealed under sub-section (1) shall be deemed to be a sanctuary or National Park, as the case may be, declared by the State Government under this Act and where any right in or

over any land in any such National Park which had not been extinguished under the said Act, at or before the commencement of this Act, the extinguishment of such rights shall be made in accordance with the provisions of this Act.

(4) For the removal of doubts, it is hereby further declared that where any proceeding under any provision of sections 19 to 25 (both inclusive) is pending on the date of commencement of the Wild Life (Protection) (Amendment) Act, 1991 any reserve forest or a part of territorial waters comprised within a sanctuary declared under section 18 to be a sanctuary before the date of such commencement shall be deemed to be a sanctuary declared under section 26A.

* * *