

**Jammu & Kashmir Wildlife (Protection) Act, 1978**

**THE JAMMU AND KASHMIR WILDLIFE (PROTECTION) Act, 1978**

**[Act. No. VIII of 1978]**

**[9<sup>th</sup> May, 1978.]**

An act to provide for the protection of [\*wild animals, birds and plants]<sup>1</sup> and for matters connected therewith or ancillary or incidental thereto.

**[The Principal Act \* ]<sup>2</sup>**

**[\*CHAPTER I]**

**Preliminary**

**1. Short title, extent and commencement.-**

- (1) This Act may be called the Jammu and Kashmir Wildlife (Protection) Act, 1978.
- (2) It extends to the whole of J&K State.
- (3) It shall come into force on such date [\*\*\*] as the Government may, by notification, appoint and different dates may be appointed for different provisions of this Act.

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

- (1) “animal” includes all forms of life such as mammals, birds, reptiles, amphibians, fish and invertebrates and also includes in the case 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 has been used, [and ivory and an article made therefrom;\*
- (3) Omitted 2002\*]
- (4) “Board” means [ \* State Board for Wildlife] constituted under subsection (1) of section 5.
- (5) “captive animal” means any animal [\* which is kept or bred in captivity including those animals specified in Schedule I, Schedule II, Schedule III, and Schedule IV but does not include livestock; ]
- (6) Omitted 2002\* ]
- (7) “chief wild life warden” means the person appointed as such under clause (a) of sub-section (1) of section 3;
- (8) [Omitted 2002 \* ]
- (9) “Collector” means the collector as defined in the Land Revenue Act. Svt. 1996. or any Officer not below the rank of Assistant Commissioner or Assistance Conservator of Forests appointed by the Government to carry out any of the functions under this Act;
- 9(a) “composition means the value of the forest produce together with the compensation imposed under the provisions of this Act;

- 9(b) “conservation reserve” means any area declared as such under section 36A of this Act; \*
- (10) “dealer” means any person who [ “buys or sells or carries on the business of buying and selling any captive animal, animal articles, trophy, uncured trophy, meat or specified plant and includes a person engaged even in a single transaction;” ]
- (11) “demarcated forest” means and includes the demarcated forest as defined under clause (c) of section 2 of the Jammu & Kashmir Forest Act, Samvat 1987;
- (11A) “forest based industry” means and includes forest based industry as defined under clause (d) of section 2 of the Jammu and Kashmir Forest Act, Samvat 1987;
- (11B) “Forest Officer” means and includes the Forest Officer as defined under clause (f) of section 2 of the Jammu and Kashmir Forest Act, Samvat 1987;
- (11C) “Forest Produce” means and includes the forest produce as defined under clause (g) of section 2 of the Jammu and Kashmir Forest Act, Samvat 1987.,”
- (12) “government property” means any property in respect of which an offence is committed under the provisions of the Act or rules made there under;
- (13) “habitat” includes land, water or vegetation [\* which is natural habitat of any wild animal or specified plant;]
- (14) “hunting” with its grammatical variations and cognate expressions, includes;
- (a) [\*capturing cursing,] killing, poisoning, snaring and trapping of any wild animal and every attempt to do so;
- (b) [driving or baiting\*] 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 disturbing the eggs or nests of such birds or reptiles;
- (15) “land” includes canals, creeks and other water channels, reservoirs, rivers, streams and lakes [\* whether artificial or natural, marshes and wetlands,] and also includes boulders and rocks;
- (16) “licence” means a licence granted under this Act;
- (16A) “livestock” means farm animals and includes buffaloes, bulls, bullocks, camels, cats, dogs, cows, donkeys, goat, sheep, horses, mules pigs, yak, zhoes, zhomoes, ducks, geese, poultry and also includes their youngs but does not include an animal specified in the Schedules of this Act;
- (17) “manufacturer” means [\* manufacturer of articles made from any animal or plantspecified in the Schedules or this Act;]
- (18) (18) “meat” includes blood, bones, sinew, eggs, shell or carapace, fat and flesh with or without skin whether raw or cooked, of any animal, captive or wild other than vermin;]
- (19) “national park” means [an area declared as such under section 35 of this Act;\*
- (19A) “notification” means a notification published in the Government Gazette; \*
- (20) “permit” means a permit granted under this Act or any rule made thereunder;
- (21) “person” [\*means and includes a person or a firm or a company or a corporation or an agency or an organization or an association of other individuals;
- (22) “prescribed” means prescribed by rules made under this Act.

- (22A) “protected area” means a National Park or a Sanctuary or a Conservation Reserve declared as such under this Act;
- (22B) “recognized zoo” means a zoo recognized under section 37C of this Act; \* ]
- (23) “royalty” means fee chargeable from a licensee or a permit holder;\* ]
- (24) “sanctuary” means an area [declared as such under section 17 or section 25A of this Act; \* ]
- (25) [Omitted 2002 \*
- (26) “saw mill” means and includes saw mill as defined under clause (i) of section 2 of the Jammu and Kashmir Forest Act, Samvat 1987
- (26A) “Schedule” means the Schedule of this Act;
- (26B) “Schedule animal” means an animal specified in Schedule VI of this Act;
- (26C) “specified plant” means any plant specified in Schedule VI of the Act;
- (26D) “specified scheduled animal” means an animal specified in Schedule I or Part II of Schedule II of this Act;
- (26E) “specified scheduled animal article” means an article made from any specified scheduled animal and includes an article or object in which the whole or any part of such animal has been used but does not include tail-feather of peacock, an article or trophy made therefrom and snake venom or its derivative; \*]
- (27) “taxidermy” with its grammatical variations and cognate expressions, means the curing, preparation or preservation or [mounting of animal ] trophies;
- (28) “transporter” includes a person, a private agency, a Government department, Corporation or any other agency engaged in the transport of goods whether on his own behalf or an behalf of any other person:
- (29) “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) (b) antler, bone, carapace, shell, horn, rhinoceros horn, hair, feather, nail, tooth, tusk, musk, eggs and nests; \*]
- (30) “uncured trophy” means the whole or any part of any captive animal or wild animal, other than vermin, which has not undergone a process of taxidermy and includes a [ freshly killed wild animals, musk and other animal products;
- (30A) “undemarcated forest” means and includes undemarcated forest as defined under clause (m) of section 2, of the Jammu and Kashmir Forest Act, Samvat 1987; \*]
- (31) “vehicle” means any conveyance used for movement on land, water or air includes buffalo, bull, bullock, camel, donkey, elephant, horse and mule;
- (32) “vermin” means any wild animal, specified in Schedule V;
- (33) “weapon” includes ammunition, bows and arrows, explosives, fire-arms, hooks, knives, nets, poison, snares and traps and any instrument or apparatus capable of [\* anaesthetizing, decoying, destroying ] injuring or killing an animal ;
- (34) “wild animal” means animal, found wild in nature and includes any animal specified in Schedule I, Schedule II, Schedule III or [ \* Schedule IV or Schedule V ] wherever found;

- (35) “wildlife” means the entire native uncultivated flora and fauna, [ and includes any animal and aquatic or land vegetation, which form part of any habitat; \*]
- (36) “wildlife warden” means the person appointed as such [ \* under clauses (a), (b) and (c) of sub-section (1) of section 3 of this Act and includes any Forest Officer;
- (36A) “zoo” means any establishment, where captive animals are kept for exhibition to the public but does not include an establishment of a licensed dealer in captive animals; \*]

## **CHAPTER II**

### **Authorities to be appointed or constituted under the Act**

#### **3. Appointment of Chief Wildlife Warden and other Officers. –**

- (1) The Government may, for the purposes of this Act, appoint-
- (a) Chief Wildlife Warden;
  - (b) Regional Wildlife Wardens;
  - (c) Wildlife Wardens;
  - (d) Assistant Wildlife Wardens;
  - (e) One Honorary Wildlife Warden in each District; and
  - (f) 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 Government may [give ] from time to time.
- (3) The Regional Wildlife Wardens, the Wildlife Wardens, Assistant Wildlife Wardens and the Honorary Wildlife Wardens and other officers and employees appointed under this section shall be subordinate to the Chief Wildlife Wardens; \* ]

#### **4. Power to delegate. –**

- (1) The Chief Wild Life Warden may with the previous approval of the 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 10 to any officer subordinate to him subject to such conditions, if any, as may be specified in the order.
- (2) Subject to any general or special direction given or condition imposed by the Chief Wild Life Warden, any person, authorized by 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 been conferred on that person directly by this Act and not by way of delegation.

#### **5. Constitution of State Board for Wildlife]. –**

- (1) The Government shall, within six months of the commencement of the Jammu and Kashmir Wildlife (Protection) (Amendment) Act, 2002 constitute a State Board for Wildlife consisting of the following members, namely:-
- (a) The Chief Minister .....Chairperson;
  - (b) Minister Incharge of Forests and Wildlife .....Vice-Chairman;

- (bb) Two members from Legislative Assembly and one member from Legislative Council, to be nominated by the Government;
- (c) Chief Secretary to Govt. .... Member;
- (d) Three representatives of NGO's nominated by the Government;
- (e) five non-officials to be nominated by the Government from amongst eminent conservationists, ecologists and environmentalists, including at least two representatives of the Scheduled Tribes;
- (f) Secretary to Government, Department of Forest;
- (g) Principal Chief Conservator of Forests;
- (h) Secretary to Government, Department of Social Welfare;
- (i) Secretary to Government, Tourism Department;
- (j) Director General of Police or his representative not below the rank of Inspector General of Police;
- (k) General Officer Commanding, Northern Command, or his representative, not below the rank of Brigadier;
- (l) Secretary to Government, Animal Husbandry Department;
- (m) Head of the Fisheries Department;
- (n) Additional Director General of Forests (Wildlife), Government of India, New Delhi or his representative not below the rank of DIG Forests (Wildlife);
- (o) Director, Wildlife Institute of India, Dehradun or his representative;
- (p) Director, Botanical Survey of India or his representative;
- (q) Director, Zoological Survey of India or his representative; and
- (r) Chief Wildlife Warden, also shall be the ex-officio Member-Secretary; \*]

(2) Report made by the Board will be placed on the Table of the House.

(3) Omitted, 2002

(4) The Terms of office of the non-official member of the Board referred in clauses (d) and (e) shall be three years and they shall be appointed in such manner as may be prescribed; ] and

(5) The members shall be entitled to receive such allowances in respect of expenses incurred in the performance of their duties as [ is admissible to a Class I Officer of the Government. \*]

**6. Procedure to be followed by the Board. –**

- (1) The Board shall meet at least twice a year at such place as the Government may direct.
- (2) The board shall regulate its own procedure. The quorum for the meeting of the Board shall not be complete unless atleast four non-official members are present;
- (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 board not affecting the merits of the case.
- (4) The Board shall appoint a standing committee to –
  - (a) watch the implementation of the recommendations of the Board and to aid and advise the Government on any matter arising therefrom;

(b) Carry out all such functions of the Board as the Board may, from time to time, delegate to it, as well, to take action on behalf of the Board while it is not in session; and

(c) Constitute specialized committees, sub-committees and study groups, as may be necessary, from time to time, for the proper discharge of the functions of the Board. ]

**(7) Duties of the Board. –**

It shall be the duty of the Board to –

(a) advise the Government –

(i) in the selection and management of the areas to be declared as protected areas;

(ii) in formulation of the policy for the protection and conservation of wildlife and specified plants and for effectively controlling poaching of wildlife.

(iii) in any matter relating to any Schedule;

(iv) in relation to the measures to be taken for harmonizing the needs of the tribals and other dwellers of the forest with the protection and conservation of wildlife; and

(v) in any matter that may be referred to it by the Government;

(b) carry out or cause to be carried out, impact assessment of various developmental projects on Wildlife or its habitat;

(c) review, from time to time, the progress in the field of wildlife conservation in the State and suggest measures for its improvement and cause to be published in the Wildlife Report of the State at least once in every three years ; and

(d) perform such other functions as are germane to the purposes for which the Board is constituted. ]

## CHAPTER – III

### HUNTING OF WILD ANIMALS

**(8) Prohibition of hunting –**

No person shall hunt any wild animal specified in Schedule I, Schedule II, Schedule III and Schedule IV except as provided under section and section 11 of this Act. ]

**(9) [\* Omitted ] 2002**

**10. 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;

[\* Provided that no such order for killing of any confirmed human killer be passed unless the Chief Wildlife Warden is satisfied that such animal can not be tranquilized, captured or translocated; ]

(b) the Chief Wild Life Warden or the authorized 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 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 therefor, permit any person to hunt such animal or cause such animal to be hunted.

(c) Any order for capture and translocation passed under clause (a) or clause (b) shall specify the area of release of such captured animal and the time within which such release must be carried out to reduce to the minimum the trauma caused to the animal.

(d) No animal captured under this section shall be kept in captivity unless the Chief Wildlife Warden is satisfied for reasons, to be recorded in writing, that such animal cannot be rehabilitated in the wild. \*]

(2) The killing or wounding in good faith of any wild animal [\* in defence of one self] or of [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 provision 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.

**11. Grant of permit for special purposes.-**

Notwithstanding anything contained elsewhere in this Act, it shall be lawful for the Chief Wildlife Warden,[\* to grant] a permit, by an order in writing, stating the reasons therefore, shall entitle the holder of such permit,[to hunt, tranquilize or capture \*] subject to such conditions as may be specified in such permit, for the purposes of-

(a) education;

(b) scientific research; [\*\* \*]

Provided that where the permission is refused in part or whole, the reasons shall be recorded and communicated to the applicant who may appeal against the refusal to the Government ;]

(bb) scientific management;

[Explanation: - for the purpose of Clause (bb), the expression, “scientific management ‘ means-

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

(ii) population management of wildlife, with out killing , poisoning or destroying any wild animal”]

(c) collection of specimens for [\* recognized zoos, ] museums and similar institutions.

Provided that the permit issued under Clause ( c ) shall specify that only one specimen per institution shall be allowed to be collected except in the case of plants where upto two specimens per institution may be allowed:

Provided further that the Chief Wildlife Warden shall not permit for such collection from the wild unless, he is satisfied that the specimens required are not available in any zoo or herbarium or in any other institution; or ]

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

**(12) Suspension or cancellation of Permit. –**

The Chief Wild Life Warden or the auhorised officer may, subject to any general or special orders of the Government, for good and sufficient reasons, to be recorded in writing, suspend or cancel any licence granted under this Chapter:

Provide that no such suspension or cancellation shall be made except after giving the holder of the permit a reasonable opportunity of being heard. \*]

**(13) Omitted 2002 ]**

**(14) Omitted 2002 ]**

**(15) Omitted 2002 ]**

**(16) Omitted 2002 ]**

**CHAPTER IIIA**  
**PROTECTION OF SPECIFIED PLANTS**

**16A. Prohibition of picking, uprooting, etc. of specified plants. –**

Save as otherwise provided in this Chapter, no person shall –

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

Provided that nothing in this section shall prevent a member of a Scheduled Tribe, subjects to the provisions of Chapter IV, from picking, collecting or processing in the district he resides any specified plant or part or derivative thereof for his bonafide personal use.

**16B. Grant of permit for special purposes. –**

The principal Chief Conservator of Forests, or the Chief Wildlife Warden, as the case may be, may with the previous permission of the Government, grant to any person a permit to pick, uproot, acquire or collect or transport from a forest land, protected area or the area specified under section 16A or transport, subject to such conditions as may be specified therein, any specified plant for the purpose of . –

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

**16C. 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 principal. Chief Conservator of Forests or the Chief Wildlife Warden or any other officer authorized by the Government in this behalf:

Provided that nothing in this section shall prevent a person, who, immediately before the commencement of the Jammu and Kashmir Wildlife (Protection) (Amendment) Act, 2002 was cultivating a specified plant, from 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.

**16D. Dealing in specified plants without licence prohibited. –**

- (1) No person shall, except under and in accordance with a licence granted by the Principal, Chief Conservator of Forests or the Chief Wildlife Warden or any other

officer authorized by the Government in this behalf, commence or carry on business or occupation as a dealer in a specified plant or part or derivative thereof:

Provided that nothing in this section shall prevent a person, who, immediately before the commencement of the Jammu and Kashmir Wildlife (Protection) (Amendment) Act, 2002 was carrying on such business or occupation, from carrying on such business or occupation, for a period of forty-five 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 can not be granted to him.

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

**16E. 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 Jammu and Kashmir Wildlife (protection) (Amendment) Act, 2002 declare to the Principal Chief Conservator of Forests or the Chief Wildlife Warden or any other officer authorized by the Government in this behalf, his stocks of such plants or part or derivative thereof, as the case may be, on the date of such commencement.

(2) The Provisions of sub-section (3) to sub-section (8) (both inclusive) of section 43, section 44, section 45 and section 46 shall, as far as may be, apply in relation to an application and a licence referred to in section 16C and section 16D as they apply in relation to the licence or business in animals or animal articles.

**16F. Possession, etc. of plants by licensee. –**

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 16E 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 there under;

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

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

**16G. Purchase, etc. of specified plants. –**

No person shall purchase, receive or acquire any specified plant or part or derivative thereof otherwise than from a licenced dealer.

**16H. Plants to be Government property. –**

- (1) Every specified plant or part or derivative thereof, in respect of which any offence under this Act or any rule or order made thereunder has been committed, shall be the property of the Government.
- (2) The provisions of sub-sections (2) and (3) of section 38 shall, be far as may be, apply in relation to the specified plant or part or derivative thereof as they apply in relation to wild animals and articles referred to in sub-section (I) of, that section.

**CHAPTER IV**

**Sanctuaries, National Parks, [\*\*\*\*] and [Conservation Reserves\*]  
SACNCTUARIES**

**17. Declaration of a Sanctuary –**

- (1) The Government may, by notification, declare its intention intention to constitute any area comprised within or outside nay demarcated or undemarcated forest as a sanctuary if it considers that such area is of adequate ecological, faunal, floral, geomorphological or natural significance, for the purpose of protecting, propagating or developing wildlife or its environment, including areas adjustment to National Parks and those which link one protected area with another.
- (2) The notification referred to in sub-section (1) shall specify, as nearly as possible, the situation and limits of such area.
- (3) Where any proceeding under any of the provisions of sections 17 to 24 (both inclusive) is pending on the date of commencement of the Jammu and Kashmir Wildlife (protection) (Amendment) Act, 2002 with regard to any demarcated or undemarcated forests declared under sub-section (I) to be a sanctuary, it shall be deemed to be a sanctuary declared under this Act and the rights, if any recorded at the time of declaration of the demarcated or undemarcated forests, subject to the provision of section 24A, shall continue:

Provide that when the Government issues or has issued a notification under this Act declaring its intention to constitute any area, not comprised within any demarcated or undemarcated forest as a Sanctuary, the provisions of sections 26 to 34 (both inclusive) shall come into effect forthwith:

Provided further that the Government shall make alternative arrangements for supplying fuel, fodder and other forest produce recorded as a right in government records, or given interim compensation in lieu thereof as may be prescribed, till such time such rights have been finally settled.

**Explanation:-** For purposes of this section, it shall be sufficient to describe the area by road, rivers, ridges or other well known or readily intelligible boundaries. \*]

**(17A) Appointment of Collector. –**

Within 180 days of coming into force of the Jammu and Kashmir Wildlife (Protection) (Amendment) Act, 2002, or within ninety days of the issue of notification under section 17, the Government shall appoint an officer not below the rank of an Assistant Commissioner or Assistant Conservator of Forests as Collector to inquire, into and determine the existence, nature and extent of rights of any person in or over the land comprised within the limits of the sanctuary. ]

**(18) Collector to determine rights .-**

When a notification has been issued under section 17 ] the Collector 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.

**(19) Bar of accrual of rights. –**

After the issue of a notification under section 17, no right shall be acquired in, on or over the land comprised within the limits of the area specified in such notification, except by succession, testamentary or intestate.

**(20) Proclamation by Collector.-**

when a notification has been issued under section 17 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 18 to prefer before the Collector, within two months from the date of such proclamation, 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 in respect thereof.

**21. Inquiry by Collector .-**

The Collector shall, after issue of proclamation expeditiously inquire into –

- (a) the claim preferred before him under clause
- (b) of section 20, and
- (c) the existence of any right mentioned in section 18 and not claimed under clause
- (b) of section 20,

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

**22. 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 official to do so ;
- (b) the same powers as are vested in a Civil Court, for the trial of suits.

**23. Acquisition of rights –**

- (1) In the case of a claim to a right in or over any land referred to in section 18, the Collector shall pass an order admitting or 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 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 land and on payment of such compensation, as is provided in the Land Acquisition Act, Svt. 1990.
- [\*(c) allow, with the prior approval of the Chief Wildlife Warden, the continuance of any right of any person in or over any land within the limits of the sanctuary. ]

**24. Acquisition proceedings .-**

- (1) For the purpose of acquiring such land, or right in or over such land –
  - (a) the Collector shall be deemed to be a Collector, proceeding under the Land Acquisition Act, Svt. 1990;
  - (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 provisions of the sections, preceding have been complied with.
  - (d) where the claimant does not accept the section 9 of that Act, shall be deemed to award made in his favour in the matter of compensation, he shall be deemed, within the meaning of section 18 of that Act, to be 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 the 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 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.

**(24-A) Period for completion of acquisition proceedings. –**

The Collector shall complete the proceedings as contemplated under section 20, section 21, section 22 and section 23 within a period of two years from the date of the notification issued under section 17 and the laps of the period of two years prescribed shall not be construed as the lapse of the notification issued under section 17. ]

**(25) Delegation of Collector's powers –**

The Government may, by general or special order, direct that the powers exercisable or the functions to be performed by the Collector under sections [ 17 to 24 a ] (both inclusive) may be exercised and performed by such other officer as may be specified in the order.

**(25A) Declaration of area as Sanctuary. –**

- (1) When –

- (a) a notification has been issued under section 17 and the period of preferring claim has lapsed, and the claims, if any, made in relation to any land in an area intended to be declared as a: sanctuary, have been disposed off by the Government; or
- (b) any area comprised within any demarcated or undemarcated forest, which is considered by the Government to be of adequate ecological, faunal, floral, geomorphological, natural or zoological significance for the purpose of protecting, propagating or developing wildlife or its environment, is to be included in a sanctuary.

The 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.

- (2) NO alteration of the boundaries of a Sanctuary shall be made except on the recommendation of the Board and a resolution to this effect passed by both Houses of the State Legislature.

**26. Restriction on entry in sanctuary.** – No person other than ; -

- (a) a public servant on duty ; [\* within the limits of the sanctuary; ]
- (b) a person who has been permitted by the Chief Wild Life Warden or the authorized 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; ]

**27. Prevention of offences in sanctuary –**

- (1) 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 authorized 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; and
  - (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.
- (2) Every person residing in, or within ten kilometers of, any area declared as sanctuary under section 17, shall within three months from such declaration, get the cattle in his possession vaccinated.

- (3) Any person who is convicted under any of the provisions of this Act, shall be evicted from the sanctuary or land in relation to which he has committed the offence.
- (4) No person shall, with intent to cause damage to any boundary-mark of a Sanctuary or to cause any wrongful gain as defined in the Ranbir Penal Code, Samvat 1989, alter, destroy, remove, or deface such boundary-mark.
- (5) 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 stay temporarily 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) Recreation and trekking;
  - (e) Transaction of lawful business with any person residing in the sanctuary;
- (2) A permit to enter or reside in 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 a permit: -**

No person shall destroy, exploit or remove wildlife or forest produce from a sanctuary or damage or divert the habitat of any wild animal or divert, stop or enhance the flow of water into or outside the Sanctuary, except in accordance with a permit granted by the Chief Wildlife Warden, and no such permit shall be granted unless the Board, being satisfied that such destruction, exploitation or removal of wildlife or forest produce from the sanctuary or the change in the flow of water into or outside the Sanctuary is necessary for the improvement and better management of wildlife therein, authorizes the issue of such permit:

Provided that any minor forest produce so removed for the betterment of the sanctuary may be used for meeting the personal bonafide needs of the people living in and around the sanctuary and shall not be used for commercial purposes, either by the Government or the recipient local people. ]

**30. Causing fire prohibited. –**

No person shall set fire to a sanctuary, or kindle any fire, or leave any fire burning in a sanctuary 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 authorized officer.

**32. Ban on use of injurious substances. –**

No person shall use or carry 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 shall roads, bridges, buildings, fences or barrier gates, and carry not 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.
- (c) may take such measures, in the interests of 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 wildlife, the grazing or movement of [live stock \*]
- (e) may regulate, control or prohibit, any fishing.

**(33-A) Immunization of livestock –**

- (1) The Chief Wildlife Warden shall take such measures and in such manner as may be prescribed, for immunization against communicable diseases of the livestock kept in or within five kilometers of a sanctuary.
- (2) No person shall take, or cause to be taken or graze, any livestock in a sanctuary without getting it immunized. ]

**33-B. Constitution of Advisory Committee for Sanctuary. –**

- (1) The Government shall constitute an Advisory Committee for each sanctuary, to be chaired by the Chief Wildlife Warden which shall consists of member of the Legislative Assembly within whose constituency the sanctuary is situated, three representatives of Panchayat, two representatives of Non-Government Organisation active in the area, three individuals active in the field of wildlife Conservation, two representatives of the related department, Honorary Wildlife Warden, if any, and the Officer incharge of the sanctuary as Member-Secretary.
- (2) The committee shall render advice on measures to be taken for the better conservation and management of the sanctuary including participation of the people living within and around the sanctuary.
- (3) The committee shall regulate its own procedure including quorum. ]

**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 kilometers ] of any such sanctuary and holding a licence granted under the Arms Act, 1959, for the possession of arms or exempted from the provisions of that Act and possessing arms or acquiring such arms subsequently shall apply in such form in payment of such fee and within such time as may be prescribed, to the Chief Wildlife Warden or the authorized officer, for the registration of his name.

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

### **National Parks**

#### **35. Declaration of National Parks. –**

- (1) Whenever it appears to the Government that an area whether within a sanctuary or not, is, by reason of its ecological, faunal, floral, [ Geomorphological or natural significance of zoological association ] needed to be constituted as a 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,

[\* Provided that in area where all the rights have been extinguished and the land has become vested in the Government under any law, the area can be notified as National Park and the provisions of sub-section (3) and sub-section (4) of this section shall not apply. ]

- (2) The notification referred to in sub-section (1) Shall define the limits of the area which is intended to be declared a National Park.
- (3) Where any area is intended to be declared as a National Park, the provisions of [ section 17 to section 25-A except clause (c) of sub-section (2) 'of section 23] shall, as far as may be, apply to the investigation, and determination of claims, and extinguishments 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 of 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 Government, and
  - (b) all rights in respect of lands proposed to be included in the National Park have become vested in the Government.

The 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. [ ; ]

[\* Provided that in area intended to be National Park and where all rights have been extinguished and the land has become vested in the Government under any law for the time being in force the proceedings under sections 17 to 25-A shall not apply and the area shall be declared to be a National Park forthwith.

- (5) No alteration of the boundaries of a National Park shall be made except on the recommendation of the Board and a resolution to this effect passed by both Houses of the State Legislature.

- (6) No person shall, destroy, exploit or remove any wildlife or forest produce from a National Park or destroy or damage or divert the habitat of any wild animal or divert, stop or enhance the flow of water into or outside the National Park except in accordance with a permit, granted by the Chief Wildlife Warden, and no such permit shall be granted unless the Board being satisfied that such destruction, exploitation, or removal of wildlife or forest produce, from the National Park or the change in flow of water into or outside the National Park or the change in flow of water into or outside the National Park is necessary for the improvement and better management of wildlife therein, authorizes the issue of such permit. National Park shall not be used for commercial purposes, either by the Government or the recipient local people;
- (7) No grazing of any [ live stock ] shall be permitted in 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 authorized to enter such, National Park.
- (8) The [provisions of section 26, section 27, section 28, section 30 to section 32 (both inclusive), and clause (a), clause (b) and clause (c) of section 33, section 33-A, section 33-B and section 34 shall as far as many be, apply in relation to National Park as they apply in relation to a Sanctuary.

## [ CONSERVATION RESERVE ]

### **36. Declaration of Conservation Reserve. –**

- (1) The Government may, by notification, declare, any area other than an area comprised within a National Park or a Sanctuary, as a Conservation Reserve, for protecting flora and fauna and its habitat, specially area adjacent to National Park and Sanctuaries and those which link one Protected Area with another, with the participation of the local people, within substantially human inhabited areas;

Provided that from the commencement of the Jammu and Kashmir Wildlife (Protection) (Amendment) Act, 2002, Game Reserves or Wetland Reserves or Chakore Reserves or Closed Areas, heretofore declared as such from time to time under this Act, shall be deemed to have declared as Conservation Reserves under this section.

- (2) No person shall destroy, exploit or remove wildlife or forest produce from a conservation reserve or destroy or damage or divert the habitat of any wild animal or enhance the flow of water into or outside the conservation reserve, except in accordance with a permit to be granted by the Chief Wildlife Warden, after being satisfied that such destruction, exploitation or removal of wildlife or forest produce from the conservation reserve or the change in the flow of water into or outside the conservation reserve is necessary for the improvement and better management of wildlife therein;

Provided that any minor forest produce so removed for the betterment of the conservation reserve, may be used for meeting the personal bonafide needs of the people living in and around the conservation reserve and shall not be used for commercial purposes, either by the Government or the recipient local people.

- (3) The provisions of sub-section. (2) of section 17, section 26, sub-section (4) and sub-section (5) of section 27, section 28, section 30, section 32, section 33, section 33-A and section 34 shall, as far as may be, apply in relation to a conservation reserve as they apply in relation to a sanctuary.
- (4) The Government shall constitute a Conservation Reserve Management Committee, which shall advise the Chief Wildlife Warden to conserve, maintain and manage the Conservation Reserve. The Committee shall comprise of the representatives of the Forest Department, Wildlife Department, one representative of each village Panchayat in whose jurisdiction the reserve is located, three representatives of non-governmental organization active in the area and representatives of other related departments not exceeding two. The representatives of the Wildlife Department shall be its Secretary.
- (5) The Committee shall regulate its own procedure including quorum. ]

**(37) Omitted 2002 ]**

**[ CHAPTER IV A ]**  
**MANAGEMENT AND RECOGNITION OF ZOOS AND DEER**  
**PARKS.**

**37-A. Chief Wildlife Warden to manage and control the zoos and deer parks in the State. –**

- (1) Notwithstanding anything contained in any other law for the time being in force, the Chief Wildlife Warden shall be responsible for the management and control of zoos and deer parks in the State.

**37-B. Functions of the Chief Wildlife Warden with respect to the management and control of Zoos and Deer Parks. –**

The chief Wildlife Warden, shall, with respect to the management and control of zoos and deer parks, perform the following functions, namely : -

- (a) specify the minimum standards for housing, upkeep and veterinary care of the animals kept in a zoo or a deer park;
- (b) evaluate and assess the functioning of zoos and deer parks with respect to the standards or the norms as may be prescribed ;
- (c) recognize or derecognize zoos and deer parks ;
- (d) identify endangered species of wild animals for the purpose of captive breeding and assigning responsibility in this regard to the zoo (s) ;
- (e) co-ordinate the acquisition, exchange and loaning of animals for breeding purpose;
- (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 or a deer park;
- (h) co-ordinate training of zoo personnel's in and outside State;

- (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 purpose of this Act with regard to zoos and deer parks.

**37-C. Recognition of Zoos and Deer Parks.**

- (1) No zoos or deer parks shall be operated without being recognized by the Chief Wildlife Warden and no recognition shall be granted without the proper approval of the Board:

provided that a zoo or a deer park being operated immediately before the date of commencement of the Jammu and Kashmir Wildlife (Protection) (Amendment) Act, 2002 may continue to operate without being recognized for a period of six months from the date of such commencement 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 further period of six months from the date of such refusal.

- (2) Every application for recognition of a zoo or a deer park shall be made to the Chief Wildlife Warden 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 application to a zoo or a deer park shall be granted unless the Board, having due regard to the interests of protection and conservation of wildlife, and such standards, norms and other matters as may be prescribed, that recognition should be granted.
- (5) No application for recognition of zoo or a deer park shall be rejected unless the applicant has been given a reasonable opportunity of being heard.
- (6) The Chief Wildlife Warden may, for reasons to be recorded by him, suspend or cancel any recognition granted under sub-section (4):  
Provided that no such suspension or cancellation shall be made except after giving the persons operating the zoo or deer park reasonable opportunity of being heard.
- (7) An appeal from an order refusing to recognize a zoo or a deer park under sub-section (5), or an order suspending or canceling a recognition under sub-section (6) shall lie to the Government.
- (8) An appeal under sub-section (7) shall be preferred with thirty days from the date of communication to the applicant, of the order appealed against:  
Provided that the Government may admit any appeal preferred after the expiry of the period aforesaid, if it is satisfied that the appellant had sufficient cause for not preferring the appeal.

**37D. Acquisition of animals by owner of a zoo or a deer park. –**

Subject to the other provisions of this Act, no owner of zoo or deer park shall acquire or transfer any wild animal specified in. Schedule I or Schedule II except with the previous permission of the Chief Wildlife Warden.

**37E. Prohibition to teasing etc., in zoo or a deer park. –**

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 zoo or deer park.”

**CHAPTER V**

**TRADE OR COMMERCE IN WILD ANIMALS.  
ANIMAL ARTICLES AND TROPHIES**

**38. Wild animals etc. to be Government property. –**

(1) Every –

- (a) Wild animal other than vermin, which is hunted under section 10 or section 29 or sub-section (6) of section 35 or kept or 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 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.
- (c) ivory and an article made from such ivory in respect of which an offence against this Act or any rule or order made thereunder has been committed ;
- (d) timber or forest produce in respect of which an offence has been committed in a Conservation Reserve or a Sanctuary or a National Park declared by the Government ; and
- (e) vehicle, vessel, weapon, trap or tool that has been used for committing an offence and has been seized under the provisions of this Act; ] and shall be the property of the Government, and where such animal is hunted in a sanctuary or National Park, declared by the Government, such animal or any animal article, trophy, uncured trophy or meat derived from such animal, [ or any vehicle, vessel, weapon, trap or tool used in such hunting \* ] shall be the property of the 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 authorized officer, as the case may be.

(3) No person shall, without the previous permission in writing of the Chief Wild Warden or the authorized 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.

**39. Declaration. –**

- (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 tusk, \*] shall within thirty days from the commencement of this Act, declare to the Chief Wildlife Warden or the authorized 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 animal or the musk of a musk deer or the horn of a rhinoceros, except with the previous permission in writing of the Chief Wildlife Warden or the authorized officer.
- (3) Nothing in sub-section (1) or sub-section (2) shall apply to a recognized zoo or deer park, subject to the provisions of section 37D or to a public museum; and
- (4) The Government may, by notification, require any person to declare to the Chief Wildlife Warden or the authorized officer [any animal or animal article \*] or salted or dried skin derived from an animal specified in Schedule I or Part II of Schedule II in his control, custody or possession in such, for in such manner, and within such time, as may be prescribed.

#### **40. Inquiry and preparation of inventories. –**

- (1) On receipt of a declaration made under section 39, the chief Wildlife Warden or the authorized officer may after such notice, in such manner and at such time, as may be prescribed.
  - (a) entry upon the premises of a person referred in section 39;
  - (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 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.

#### **41. Certificate of ownership –**

The Chief Wildlife Warden may for the purpose of section 39 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.

#### **42. 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 or 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 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 Wildlife Warden or the authorized officer.
- (2) Where a person transfers [\* or transports from this State 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 (a) in respect of which he has a certificate of ownership, he shall, within thirty days of the transfer, report the transfer to the Chief Wildlife Warden or the authorized officer, [\* within whose jurisdiction the transfer or transport is effected.
- (3) No person who does not possess a certificate of ownership shall 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 Wildlife Warden or the authorised officer.
- (4) Before granting any permission under sub-section (1) or sub-section (3) the Chief Wildlife Warden or the authorized officer shall satisfy himself that the animal or article referred to therein has been lawfully acquired.
- (5) While permitting the transfer of any animal, animal article, trophy or uncured trophy, as is referred to in sub-section (1) the Chief Wild Life Warden or the authorized 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:
- (a) to tail feather of peacock and articles or trophies made therefrom;
  - (b) to any transaction entered into by a recognized zoo subject to the provisions of section 37-D or with any other recognized zoo or public museum.

**43. Dealings in trophy and animal articles without licence prohibited. –**

- (1) Except under, and in accordance with, a licence granted under sub-section (4) no person shall –
- (a) commence or carry in 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) an exhibition of captive animals specified
- (vi) Omitted 2002 \*]

- (b) Cook or serve meat in any eating house; or
- (c) Carry on a business of circus or exhibition of captive animals for the purpose of performance:
- (d) Derive, collect, 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 or 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 or he is informed in writing that a licence cannot be granted to him:

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

**Explanation** – For the purpose of this section, “eating-house” includes a hotel, restaurant, house-boat 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 ever dealer in captive animals, trophies or uncured trophies, or every taxidermist shall, within forty-five days from the commencement of this Act, declare to the trophies and uncured trophies, as the case may be, as on the date of such declarations and the Chief Wildlife Warden or the authorized 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, within forty-five days from the commencement of this Act, make an application to the Chief Wildlife Warden or the authorized officer for the grant of a licence.
- (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 Wildlife Warden or the authorized officer.  
(b) No licence referred to in sub-section (1) shall be granted unless the Chief Wildlife Warden, or [\* the authorized officer having regard to the antecedents and previous experience of the applicant, the implications which the grant of such licence would have on the status of wildlife and to such matters as may be prescribed in this behalf ] and after making such inquiry in respect of those matters as he 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 licensee 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 Wildlife Warden or the authorized officer is satisfied that –
- (i) the application for such renewal has been made after the expiry of the period specified therefore; 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 fulfill the prescribed conditions.
- (8) Every order granting or rejecting an application for the grant or renewal of a licence shall be made a reasons therefore recorded in writing.
- (9) Nothing in the foregoing sub-sections shall apply in relation to vermin.

**44. Suspension or cancellation of licences –**

Subject to any general or special order of the Government, [ the ] Chief Wildlife Warden or the authorized officer may, for reasons to be recorded by him in writing suspend or cancel any licence granted or renewed under section 43 ;

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

**45. Appeal. –**

- (1) An appeal from an order refusing grant or renew a licence under section 43 or an order suspending or canceling a licence under section 44 shall lie –
- (a) if the order is made by the authorized officer, to the chief Wild Life Warden; or
  - (b) if the order is made by the Chief Wildlife Warden, to the Government.
- (2) In the case of an order passed in appeal by the Chief Wildlife Warden under clause (a) of sub-section (1), a section appeal shall lie to the 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 the communication, to the applicant, of the order appealed against:

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

**46. Maintenance of records. –**

A licensee under this Chapter shall –

- (a) keep records and submit such returns of his dealings as may be prescribed, to the chief Wildlife Warden and Wildlife Warden or the authorized officer;

**47. Purchase of animal etc. by licensee. –**

No licensee under this Chapter shall –

- (a) keep in his control, custody or possession –
  - (i) any animal, animal article, trophy or uncured trophy in respect of which a declaration under the provisions of sub-section (2) of section 43 has to 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 ] 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 outside State, no such transfer or transport shall be effected except with the previous permission in writing of the Chief Wildlife Warden or any other officer authorized by him in this behalf:

Provided further that no such permission under the foregoing provision shall be granted unless the Chief Wildlife Warden or the officer authorized by him is satisfied that the animal or article aforesaid has been lawfully acquired.

**(48) Restriction on transportation of wildlife. –**

No person shall accept any wild animal (other than vermin) or any animal article, or any specified plant or part or derivative thereof, for transportation except after exercising due care to ascertain that permission from the Chief Wildlife Warden or any other officer authorized by the government in this behalf has been obtained for such transportation.

**49. Purchase of captive animal, etc. by a person other than a 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 authorized to sell or otherwise transfer the same under this Act:

Provided that nothing in this section shall apply to a recognized zoo subject to the provisions of section 37 D or to a public museum. - ]

## [CHAPTER V A \*]

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

#### **49A. Prohibition of dealing in trophies, animal articles etc. derived from specified scheduled animals. –**

(1) Subject to the other provisions of this section and after sixty days from the commencement of the Jammu and Kashmir Wildlife Protection (Amendment) Act, 2002 no person shall –

(a) commence or carry on the business as –

- (i) a manufacturer of, or dealer in, specified scheduled animal articles ; or
- (ii) a dealer in ivory articles made therefrom or a manufacture of such articles; or
- (iii) a taxidermist with respect to any specified scheduled animal or any part of such animal; or
- (iv) a dealer in trophy or uncured trophy derived from any specified scheduled animal; or
- (v) a dealer in any captive animal being specified scheduled animal; or
- (vi) a dealer in meat derived from any specified scheduled animal; or

(b) cook or serve meat derived from any specified scheduled animal in any eating-house.

**Explanation.** – For the purpose of this sub-section “eating-house” has the same meaning as in the Explanation below sub-section ( I ) of section 43.

(2) Subject to the other provisions of this section, the licence granted or renewed under section 43 before the commencement of the Jammu and Kashmir Wildlife (Protection) (Amendment) Act, 2002 shall not 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 the occupation referred to in clause (b) of that sub-section after the commencement of the said Amendment Act.

(3) Notwithstanding anything contained in sub-section (I) or sub-section (2), where the Government is satisfied that it is necessary or expedient to do so in the public interest, it may, by general or special order published in the Government Gazette, exempt, for purposes of export, any corporation owned or controlled wholly, or

substantially financed by the Government from the provisions of sub-section (1) and sub-section (2).

- (4) Notwithstanding any thing 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 43 to carry on the business as a taxidermist may put under a process of taxidermy any specified scheduled animal or any part thereof, -
- (a) for or on behalf of the Government or any corporation exempted under sub-section (3); or
  - (b) with the previous authorization in writing of the Chief Wildlife Warden, for and on behalf of any person for educational or scientific purpose.

**49-B. Declaration by dealer. –**

- (1) Every person carrying on the business or occupation referred to in sub-section (1) of section 49A shall, within sixty days after the commencement of the Jammu and Kashmir Wildlife (Protection) (Amendment) Act, 2002, declare to the Chief Wildlife Warden or the authorized officer, -
- (a) his stock, if any, of –
    - (i) specified scheduled animal articles;
    - (ii) specified scheduled animals and parts thereof;
    - (iii) trophies and uncured trophies derived from specified scheduled animals.
    - (iv) Captive animals being specified scheduled animals; and
    - (v) Ivory or article made therefrom.

Provided that such declaration, in respect of any wild animal, added or transferred to Schedule I or part II of Schedule II at any time after the commencement of the Jammu & Kashmir Wildlife (Protection) (Amendment) Act, 2002 shall be made within sixty days after such addition or transfer;

- (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 bonafide personal use.
- (2) On receipt of a declaration under sub-section (1), the Chief Wildlife Warden or the authorized officer may take all or any of the measures specified in section 40 and for this purpose, the provisions of section 40 shall, so far as may be, apply.
- (3) Where, in a declaration made under sub-section (1), the persons making the declaration expresses his desire to retain with himself any of the items of the stocks specified in the declaration for his bonafide personal use, the Chief Wildlife Warden, with the prior approval of the Government, may, if he is satisfied that the person is in lawful possession of such items issue certificate 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 Wildlife Warden are required for the bonafide personal use of such persons and affix upon such items identification marks in such manner as may be prescribed:

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

- (4) No person shall obliterate or counterfeit any identification mark referred to in sub-section (3).
- (5) Any appeal shall lie against any refusal to grant certificate of ownership under sub-section (3) and the provisions of sub-section (2), sub-section (3) and sub-section (4) of section 45 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 to any person, whether by way of gift, sale or otherwise; or
  - (b) transfers on transports from or to the State any such item, he shall, within thirty days of such transfer or transport, report the transfer or transport to the Chief Wildlife Warden or the authorized officer.
- (7) No person, other than a person who has been issued a certificate of ownership under sub-section (3) shall, after 60 days from the commencement of the Jammu and Kashmir Wildlife (Protection) (Amendment) Act, 2002 date, keep under his control, sell or offer for sale or transfer to any person any specified scheduled animal or specified scheduled animal article or any kind of ivory or any article made therefrom.”

## **CHAPTER VI**

### **PREVENTION AND DETECTION OF OFFENCES**

#### **50. Power of entry, search, arrest and detention.**

- (1) Notwithstanding anything contained in any other law for the time being in force, the Chief Wildlife Warden or the authorized 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, [ trophy, uncured trophy or forest produce or 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 provision of his Act;
    - (b) stop any vehicle or vessel in order to conduct search or inquiry or enter upon and search any premises, land, vehicle or vessel, in the occupation of such persons and open or search any baggage or other things in his possession, and may break open any outer or inner door, window of any premises or places in order to conduct search or liberate himself or any person lawfully authorized for the purpose of making search or seizure;
- [ \* (c) Seize –
- (i) any captive animal, wild animal, animal article, meat trophy or uncured trophy, or any forest produce 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 with all traps, tools, vehicles, vessels, or weapons, boats, carts, equipments, ropes, chains,

machines, cattle, or any other article 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 ;

- (ii) any trap, tool, vessel, or weapon intended to be used for committing an offence under this Act and any person who is found to be in possession of any trap or weapon in any Protected Area, shall be deemed to be intending to use them for the purpose of committing an offence under this Act unless proved otherwise;
  - (iii) any timber or any other forest produce in possession of any person, in respect of which an offence has been committed in a Conservation Reserve or National Park declared by the Government together with all tools, arms, weapons, vessels, equipments, ropes, chains, machines, vehicle, cattle or any other article used in committing 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.
- (cc) any officer seizing any property under this section shall place on such property a mark indicating the same has been so seized, and shall as soon as may be, make a report of such seizure to the Magistrate having jurisdiction to try the offence on account of which such seizure has been made under intimation to the Chief Wildlife Warden.
- (d) hold an inquiry into the offence under the Act, and during the course of the inquire to receive and record evidence and compel attendance of witnesses and production of documents and material objects, evidence so recorded shall be produced in any subsequent trial before a Magistrate.
- (2) Any officer of and above the rank of an Assistant Wildlife Warden or Assistant Conservator of Forests, who or whose subordinate, has seized any captive animal or wild animals or any animal article, or specified plant or part or derivative thereof, or any forest produce or any vessels, vehicles, tools, arms, weapons, machines, equipments, implements, chains, ropes or cattle or any other articles used in committing any offence under this Act may keep the same on “Sapurdnama” of a respectable person on the execution of a bond thereof, by such person, for the production of the property so kept on “Sapurdnama”, if and when so required, before the Magistrate having jurisdiction to try the offence, on account of which the seizure has been made.
- (3) It shall be lawful for any of the officers referred to in sub-section (1) to stop and detain any person, whom he sees doing any, act for which a licence or permit is required under the provision of this Act; for 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.
- (4) Any person detained, or things seized under the foregoing power, shall forthwith be taken before a Judicial 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 the section, shall be guilty of an offence against this Act.
- (6) Where any meat or uncured trophy, specified plant or part or derivative thereof is seized under this section, the Chief Wildlife Warden or the authorized officer may arrange for the destruction of the same in such manner as may be prescribed;
- (7) Whenever any person is approached by any officers referred to in sub-section (1) for assistance in the prevention or detection of an offence against this Act, or in apprehending persons charged with the violation of this Act, or for seizure in accordance with clause (c) of sub-section (1), it shall be the duty of such person to render such assistance.
- (8) Notwithstanding anything contained in any other law for the time being in force, any officer of the Wildlife Department not below the rank of Assistant Wildlife Warden or Assistant Conservator of Forests, shall have the powers, for the purpose of making investigation into any offence against any provision of this Act. –
  - (a) to issue a search warrant;
  - (b) to enforce the attendance of witness;
  - (c) to compel the discovery and production of documents and material objects; and
  - (d) to receive and record evidence.
- (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 presence of the accused persons.

**50-A. Requisition for police assistance.-**

Any Wildlife Warden or Forest Officer may requisition the services of any Police Officer having jurisdiction in the area to assist him for any of the purpose of this Act and it shall the duty of every such officer to comply with such requisition.

**51. Penalties. –**

- (1) Any person who contravenes any provisions of this Act [ except chapter VA and section 37E and section 42 ] or any rule or order made there under or who commits a breach of any of the conditions of any licence or permit granted under this Act, shall be guilty of any offence against this Act and shall on conviction be punishable with imprisonment for a term which may extend to [ three years and fine which may extend to twenty-five thousand rupees but shall not be less than ten thousand rupees.

Provided that where the offence committed is in relation to any animal specified in schedule in schedule I or Part II of Schedule II or meat of any such animal or animal article, trophy or uncured trophy derived from such animal or where the offence relates to hunting in [ conservation reserve ] a sanctuary or a National Park; such offence shall be punishable with imprisonment for a term which shall not be less than [ \* two years] but may extent to six years and also with the fine which shall not be less than [Twenty five thousand rupees

Provided that in the case of a second or subsequent offence of the nature mentioned in the fore-going provision, the term of imprisonment shall not be less than, [ two years ] and the amount of the fine shall not be less than [ ten thousand ] rupees.

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

(1B) Any person who contravenes the provisions of section 37D and section 42 shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to five thousand rupees, or with both;

provided that in case of second or subsequent offence the term of imprisonment may extend to two year or the fine may extend to twenty-five thousand rupees; ]

(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, uncured trophy or meat [ivory and articles made from such ivory, any forest produce, specified plant or part or derivative thereof ] in respect of which the offence has been committed, and nay trap, tools, vehicle, vessel or weapon, used in the commission of the said offence be forfeited to the 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 1959), for possession of any arms 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 for a period of five years from the date of conviction.

(5) Nothing contained in section 562 of the Code of Criminal Procedure, Samvat 1989 or in the Jammu and Kashmir Probating of Offenders Act, 1966 shall apply to a person convicted of an offence with respect to hunting in a conservation reserve or a sanctuary or a national park or of an offence against any provision of Chapter V A unless such person is under eighteen years of age.

**(51A) Penalty for endangering protected area or polluting the environment.**

Any person who –

- (a) sets fire to a protected area or kindles any fire or leaves any fire burning in such manner as to endanger such protected area;
- (b) attempts to clear or breaks up any land or erects a fence, enclosure or any structure for cultivation or cultivates or attempts to cultivate any land in any other manner in any protected area for any other purpose;
- (c) Installs or establishes a saw mill or forest based industry or any other industry pollution the environment within such limit outside the protected area to be prescribed by the Government from time to time.

Shall be punished with imprisonment for a term which may extend to three years but shall not be less than six months and with fine which may extend to fifty thousand rupees but shall not be less than five thousand rupees. \*]

**(52) Omitted 2002**

**53. Penalty for altering, removing, destroying or defacing boundary mark. –** Whoever, with intent to cause damage or injury to the public, or to any person or to cause wrongful gain as defined in the Ranbir Penal Code, alters, removes, destroys or defaces any boundary mark of a [ Protected area], shall be punished with imprisonment of either description for a term which may extend to [ three years but shall not be less than six months and with fine which may extend to twenty thousand rupees but shall not be less than ten thousand rupees ; ]

**(53A) Power to remove encroachments. –**

(1) Notwithstanding anything contained in any other law for the time being in force, any person who unauthorizedly takes or remains in possession of any land in areas declared as protected area under this Act, may without prejudice to any other below the rank of Deputy Conservator of Forests or Wildlife Warden not below the rank of Regional Wildlife Warden and any crop which may be standing on such land or any building or other work which he may have constructed thereon, or if not removed by him within such time as Forest Officer or Wildlife Warden may fix, shall be forfeited:

provided that no order of ejection under this section shall be passes unless the person proposed to be ejected is given reasonable opportunity of showing cause, as to why such order should not be passed.

- (2) Any property so forfeited shall be disposed off in such manner as the Forest Officer or Wildlife Warden may direct and the cost of removal of any crop or building or other work and of all works necessary to restore the land to its original condition shall be recoverable from such person in the manner provided in section 53B –
- (3) Any person aggrieved by an order of the Forest Officer or Wildlife Warden under sub-section (1) may, within such period and in such manner as may be prescribed, appeal against such order to the chief wildlife warden and the order of the forest officer or wildlife warden shall, subject to the decision of such appeal, be final.
- (4) The provisions of this section shall apply notwithstanding any other penalty that may be imposed for violation of any other provision of this Act.

**(53B) Compensation for loss or damage. –**

Any person who causes any loss or damage to any protected area or encroaches upon such protected area shall be liable to compensate the Government. The remedy available under this section shall be without prejudice and in addition to any remedy that the Government may have under any law in this regard.

**(53C) Recovery of dues. –**

All money payable to the Government under this Act or under any rule made there under, or on account of price of any forest produce or expenses incurred in the execution of this Act, in respect of such produce, shall if not paid when due, be recovered under the law for the time being in force as if it were an arrear of land revenue.

**(53D) Offences non-bailable. –**

Notwithstanding anything contained in this Act or any other law for the time being in force all offences under this Act other than those compoundable under section 56 shall be non-bailable, and nothing in section 497 A of Code of Criminal Procedure, Samvat 1989 shall apply to offences under this Act.]

**54. 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 there under shall be deemed to have contravened that provision or rule or order, as the case may be.

**(54 A) Penalty for forcibly opposing seizure –**

Any person who opposes the seizure of tools, arms, boats, carts, equipments, ropes, chains, machines, vehicles, or livestock liable to be seized under this Act or forcibly recovers the same after seizure shall be punishable with imprisonment for a term which may extend to three years but shall not be less than six months and with fine which may extend to ten thousand rupees but shall not be less than five thousand rupees;

**(54B) Penalties for non-compliance: -**

Any person who willfully neglects to give information or to render assistance which he is bound to give or render under this Act shall be liable, on conviction by the Judicial Magistrate of First Class, to fine not exceeding five thousand rupees or in default of payment of such fine to simple imprisonment for a term not exceeding six months \*]

**55. 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.

**56. Power to compound offences. –**

(1) The Government may, by notification empower the Chief Wildlife Warden or [\* any officer not below the rank of Assistant Wildlife Warden or Assistant Conservator of Forests ]. –

- (f) 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; and
- (g) When any property has been seized [ is liable \*] to be forfeited to release the same on payment of the value thereof as estimated by such officer.

- (2) On payment of such sum of money or such value, of 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 to 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 clause (a) of sub-section (1) shall, in no case, exceed the sum of [fifteen thousand\*] rupees :

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

**(57) Rewards:**

- (1) When a court imposes a sentence of fine or a sentence of which fine forms a part, The court may when passing judgment, order that the reward be paid to a person who rendered assistance in the detection of the offence or the apprehension of the offenders out of the proceeds of fine not exceeding twenty percent of such fine.
- (2) When a case is compounded under section 56, the officer compounding may order reward to be paid to a person who rendered 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 per cent of such money.
- (3) Notwithstanding anything contained in sub-section (1) and sub-section, the Chief Wildlife Warden may order payment of reward not exceeding rupees two thousand and five hundred to be paid to the person(s) rendered assistance in the detection of offence leading to seizure or apprehension of an offender in such manner as may be prescribed \*]

**58. Cognizance of offences:**

No court shall take cognizance of any offence against this Act except on the complaint of the Chief WildLife Warden or such other officer as the Government may authorize in this behalf [ ; ]

[\* Provided that a Court may take cognizance of such any offence on the complaint of 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 Government or the officer authorized as aforesaid. ]

**59. 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 the 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.

**(60) Presumption to be made in certain cases:**

Where, in any prosecution for an offence under this Act, it is established that a person is in possession, custody or control of any captive animal, animal article, meat, trophy, uncured trophy, forest produce, specified plant, or part or derivative thereof, it shall be presumed, until the contrary is proved by the accused, that such person is in unlawful possession, custody or control of such captive animal, animal article, meat, trophy, uncured trophy, forest produce, specified plant, or part or derivative thereof ]

**(60A) Penalties for breach of other provisions –**

Any person breaking any provision of this Act for the breach of which no special penalty is provided, shall be punished with the imprisonment for a term which may extend to two years but shall not be less than six months and with fine which may extend to ten thousand rupees but shall not be less than five thousand rupees ]

**61. 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 the 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 is 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 purpose of this section. –

- (a) “Company” means anybody corporate and includes a firm or other association of individuals; and
- (b) “Director” in relation to a firm, means a partner in the firm.

## **CHAPTER VII MISCELLANEOUS**

**62. Officers to be public servants. –**

Every officer referred to in Chapter II 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 Ranbir Penal Code, Svt. 1989.

**63. Protection of action taken in good faith. –**

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

**64. Power to exempt. –**

The Government may, subject to such conditions and restrictions, if any, as may be imposed, by order exempt any person from payment of any fee under this Act or the rules made there under.

**65. Power to alter entries in Schedules. –**

- (1) The Government may if it is of opinion that it is expedient so to do by notification transfer an entry from Schedule II, Schedule III, Schedule IV or Schedule V to Schedule I and may also transfer any entry from Schedule III, or Schedule IV or Schedule V to any Schedule or transfer any entry from one part of a Schedule to another part of the same Schedule or from one Schedule to another.
- (2) on the issue of a notification under sub-section (1), the relevant Schedule shall be deemed to be altered accordingly, provided that every such alteration shall be without prejudice to anything done or omitted to be done before such alteration.

**66. Declaration of certain Wild Animals to be vermin –**

Subject to the provisions of section 65, the Government, may by notification declare any wild animal other than those specified in Schedule I and Part II to 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.

**67. Powers of Government of make rules. –**

- (1) The Government may by notification make rules for carrying out the provisions of this Act.
- (2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely. –
  - (a) the form in which declaration shall be made under sub-section (2) of section 43;
  - (b) the term and conditions which shall govern transactions referred to in clause (b) of section 47;
  - (c) the terms of office of the members of the Board referred to in clause (g) of sub-section (1) of section 5 and the manner of filling vacancies among them;
  - (d) allowances referred to in sub-section 4 of section 5;
  - (e) the forms to be used for any application, certificates, claim, declaration, licence, permit, registration return or other document made, granted, or submitted under the provisions of this Act and the fees, if any, therefore;
  - (f) the condition subject to which any licence or permit may be granted or refused under this Act;

- (g) the particulars of the record of wild animals. (Captured or killed) to be kept and submitted by the licensee;
- (h) regulation of the possession, transfer and the sale of captive animals, meat, animal articles trophies and uncured trophies;
- (i) regulation of taxidermy;
- (j) any other matter which has to be or may be, prescribed under this Act;
- (k) regulation of payment of awards to informers or those who produce a carcass or dead body of wild animals other than vermins.

**68. Repeal and savings. –**

- (1) As from the commencement of this Act, the Jammu and Kashmir Game Preservation Act, 1998 relating to any matter contained in this Act 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 to repealed or anything duly done or suffered thereunder;
- (ii) affect any right, privilege, obligation or liability acquired, accrued 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 the Act so repealed and is 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 game sanctuary or game reserve declared by the Government under the Act repealed under sub-section (1) shall be deemed to be a game sanctuary or game reserve, as the case may be, declared by the Government under this Act and where any right in or over any land in any such game sanctuary or game reserve which had not been extinguished under the said Act,

at or before the commencement of this Act, the extinguishments of such right shall be made in accordance with the provisions of this Act.