

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 Director or any other authorised by him in this behalf or the Chief Wildlife Warden or the authorised officer or any forest officer or any police officer not below the rank of a sub-inspector may, if he has reasonable grounds for believing that any person has committed an offence against this Act,

- (a) require any such person to produce for inspection any captive animal, wild animal, animal article, meat, [¹trophy, uncured trophy, or any specified plant or part or derivative thereof] in his control, custody or possession, or any licence, permit or any other document granted to him or required to be kept by him under the provisions of this 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 person, and open and search any baggage or other things in his possession;
- [²(c) seize any captive animal, wild animal, animal article, meat, trophy or uncured trophy, or any specified plant or part or derivative thereof in respect of which an offence against this Act appears to have been committed, in the possession of any person together with any trap, tool, vehicle, vessel, or weapon used for committing any such offence and unless he is satisfied that such person will appear and answer any charge which may be preferred against him arrest him without warrant and detain him.

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

(2) [³Omitted 1991]

(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 provisions of this Act, for the purposes of requiring such person to produce the licence or permit and if such person fails to produce the licence or permit, as the case may be, he may be arrested without warrant, unless he furnishes his name and address, and otherwise satisfies the officer arresting him that he will duly answer any summons or other proceedings which may be taken against him.

[(3A) Any officer of a rank not inferior to that of an Assistant Director of Wildlife Preservation or Wildlife Warden, who, or whose subordinate, has seized any captive animal or wild animal under clause (c) of sub-section (1) may give the same for custody on the execution by any person of a bond for the production of such animal if and when so required, before the magistrate having jurisdiction to try the offence on account of which the seizure has been made. ⁴]

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

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

- (6) (a) Where any [⁵meat or uncured trophy, specified plant or part or derivative thereof] is seized under the provisions of this section, the Asstt. Director of Wildlife Preservation or any other officer of a gazetted rank authorised by him in this behalf or the Chief Wildlife Warden or the authorised officer may arrange for the sale of the same and deal with the proceeds of such sale in such manner as may be prescribed.
- (b) Where it is proved that the [⁶meat or uncured trophy, specified plant or part or derivative thereof] seized under the provision of this section is not Government property, the proceed of the sale shall be returned to the owner.

(7) Whenever any person is approached by any of the 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 Ct. (c) of sub-section (1), it shall be the duty of such person or persons to render such assistance.

[⁷(8) Notwithstanding anything contained in any other law for the time being in force, any officer not below the rank of an Assistant Director of Wildlife Preservation or Wildlife Warden 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 person. ^{8]}

51. Penalties. - (1) Any person who ⁹[contravenes any provisions of this Act [¹⁰except Chapter VA and section 38J]] or any rule or order made thereunder or who commits a breach of any of the conditions of any licence or permit granted under this Act, shall be guilty of an offence against this Act, and shall, on conviction, be punishable with imprisonment for a term which may extend to [three years] or with fine which may extend to [twenty five thousand rupees] or with both.

Provided that where the offence committed is in relation to any animal specified in Scheduled I or Part 11 of Sch. 11, or meat of any such animal, animal article, trophy, or uncured trophy derived from such animal or where offence [relates to hunting in, or, altering the boundaries of] a sanctuary or a National Park, such offence shall be punishable with imprisonment for a term which shall not be less than [one year] but may extend to six years and also with fine which shall not be less than [five thousand rupees¹¹].

[Provided further that in the case of a second or subsequent offence of the nature mentioned in this sub-section, the term or imprisonment may extend to six years ‘ and shall not be less than two years and the amount of fine shall not be less than ten thousand rupees.]

[¹² (1A) Any person who contravenes any provisions of Chapter VA, 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 shall not be less than five thousand rupees.]

[(¹³1B) Any person who contravenes the provisions of Section 38J] shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to two thousand rupees, or with both.

Provided that in case of second or subsequent offence the term of imprisonment may extend to one year or the fine may extend to 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, [¹⁴uncured trophy, meat, ivory imported into India or an article made from such ivory, any specified plant or part or derivative thereof] in respect of which the offence has been committed, any trap, tool, vehicle, vessel, or weapon used in the commission of the said offence be forfeited to the State Government and that any licence or permit, held by such person under the provisions of this Act, be cancelled.

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

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

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

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

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

54. Power to compound offences. - (1) [¹⁶The Central Government may, by notification empower the Director of Wildlife Preservation or any other officer and the State Government], may, by notification, empower the C-1-def Wildlife Warden or any officer or a rank not inferior to that of a Deputy Conservator of Forests,

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

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

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

(4) The sum of money accepted or agreed to be accepted as composition under C1. (b) of sub-section (1) shall, in no case, exceed the sum of two thousand rupees.

Provided that no offence, for which a minimum period of imprisonment has been prescribed in sub-section (1) of sec51, shall be compounded.

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

- (a) the Director of Wildlife Preservation or any other officer authorised in this behalf by the State Government; or
- (b) the Chief Wildlife Warden, or any other officer authorised in this behalf by the State Government; or
- (c) any person who has given notice of not less than sixty days, in the manner prescribed, of the alleged offence and of his intention to make a complaint, to the Central Government or the officer authorised as aforesaid.]¹⁸

56. Operation of other laws not barred. - Nothing in this Act shall be deemed to prevent any person from being prosecuted under any other law for 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.

57. Presumption to be made in certain cases. - Where, in any prosecution for one offence against this Act, it is established that a person is in possession, custody or control of any captive animal, animal article, [meat, trophy, uncured, trophy, specified plant, or part or derivative thereof,¹⁹] it shall be presumed until the contrary is proved, the burden of proving which shall lie on the accused, that such person is in unlawful possession, custody or control of such captive animal, animal article, meat, [trophy, uncured trophy] specified plant, or part or derivative thereof.]

58. Offences by companies. - (1) Where an offence against this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company as well as 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 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 any body corporate and includes a firm or other association of individuals; and
- (b) “director”, in relation to a firm, means a partner in the firm

¹ Sec. 50(1)(a) The words “meat, trophy or uncured” substituted by Act 44 of 1991, sec.36

² Sec.50(1)(c) “seize any captive animal, wild animal, animal article, meat trophy or uncured trophy in the possession of any person and appearing to him to be Government property, together with any trap, tool, vehicle, vessel, or weapon used for committing any such offence and, unless; he is satisfied that such person will appear and answer any charge which may be preferred against him arrest him without warrant, and detain him. “substituted by Act 44 of 1991 sec.36.

³ Sec.50(2) “Any officer of a rank not inferior to that of an Assistant Director of Wildlife Preservation or Wildlife Warden, who, or whose subordinate, has seized any trap, tool, vehicle, vessel, or weapon under CL(c) of sub-section (1), may release the same, on the execution by the owner thereof a bond for the production of the property so released, if and when required, before the Magistrate having jurisdiction to try the offence on account of which the seizure has been made.” omitted by Act 44 of 1991 sec.36.

⁴ Sec.50.(3A) Inserted by Act 44 of 1991, sec.36.

⁵ Sec.50(6)(a) The words “meat or uncured trophy” substituted by Act 44 of 1991, sec.36.

⁶ Sec.50(6)(b) The words” meat or uncured trophy” substituted by Act 44 of 1991, sec.36.

⁷ Sec.50(8) Inserted by Act 44 of 1991, sec.36.

⁸ Sec.50(9) Inserted by Act 44 of 1991, sec. 36.

⁹ Subs. by Act 28 of 1986, sec.4. for the certain words (w.e.f 20th November, 1986).

¹⁰ Sec.51(1) The words “contravenes any provision of this Act” substituted by Act 28 of 1986, sec.4. and the words “except Chapter VA” substituted by Act 44 of 1991, sec.37. The words “two years” and “two thousand rupees” substituted by Act 44 of 1991, sec. 37.

¹¹ Sec.51(1) The words “or altering the boundaries of”, six months”, and “five thousand rupees” occurring in the first provision substituted by Act 44 of 1991, sec. 37.
The second provision substituted by Act 44 of 1991, sec.37.

¹² Sec.51(1A) Ins by Act 28 of 1986, sec.4. (w.e.f. 20th November, 1986).

¹³ Sec.51 (1B) Inserted by Act 44 of 1991, sec. 37.

¹⁴ Sec.51(2) The words “uncured trophy or meat” substituted by Act 44 of 1991, sec.37

¹⁵ Sec.51(5) Inserted by Act 44 of 1991, sec.37.

- ¹⁶ Sec. 54(l) The words “The State Government” substituted by Act 44 of 1991, sec.38.
- ¹⁷ Sec. 55 “No Court shall take cognizance of any offence against this Act except on the complaint of the Chief Wildlife Warden or such officer as the State Government may authorise in this behalf.” substituted by Act 44 of 1991, sec. 39.
- ¹⁸ Sec. 55(c) came into force w.e.f. 20.4.1995 vide S.O. No. 344(E) Dt. 7.4.95 published in the Gazette of India, Extraordinary, Part II, Sec.3(ii) Dt. 18.4.95.
- ¹⁹ Sec.57. The words “meat or trophy and uncured trophy” substituted by Act 44 of 1991, sec.40.