

CHAPTER- I

SALIENT FEATURES OF WILDLIFE (PROTECTION) ACT, 1972

1.1 Who are the “authorities” appointed under Wildlife Protection Act?

Following are the authorities appointed under Wildlife (Protection) Act.

- (i) Director, Wildlife Preservation, Government of India
- (ii) Chief Wildlife Warden of the State
- iii. Wildlife Wardens
 - (iv) Honorary Wildlife Wardens
 - (v) Such other Officers and Employees as appointed by Govt. of India
- vi. Such other Officers and Employees as appointed by State Govt.

(See Appendix 18 - Section 4)

1.1.1 What Powers a Chief Wildlife Warden can delegate to any officer subordinate to him?

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

1.1.2 Can the State Government authorize or appoint any other officer for the implementation of Wildlife (Protection) Act?

Punjab Government Vide Notification No. 34/29/02/Ft.-IV/1295, Dated 29.01.2004 granted approval to the Chief Wild Life Warden, Punjab to delegate powers under Section 40, 41 of the Wildlife (Protection) Act, 1972 to the

Divisional Forest Officer Incharge Territorial Forest Divisions in the State. Consequently Chief Wildlife Warden, Punjab in exercise of the powers conferred by Section 5(2) and 5(3) of the Wildlife (Protection) Act, 1972 has authorised all Divisional Forest Officers Incharge Territorial Forest Division in the State to exercise powers under Section 40, 41 of Wildlife (Protection) Act, 1972 vide letter No 5019-44 dated 05-02-2004 of the Wildlife (Protection) Act, 1972 **(Appendix- 34)**.

Punjab Government further Vide Notification No. 34/28/04/Ft.-V/1053, Dated 31.01.2005 granted approval to the Chief Wild Life Warden, Punjab to delegate powers under Section 48A of the Wildlife (Protection) Act, 1972 to the Divisional Forest Officer Incharge Territorial Forest Divisions in the State. The Chief Wildlife Warden, Punjab further vide letter No 4582-4610 dated 15-02-2005 **(Appendix-35)** authorized all Divisional Forest Officer Incharge Territorial Forest Divisions in the State to exercise powers under section 48A of Wildlife (Protection) Act, 1972.

Chief Wildlife Warden, Punjab has further authorized all Divisional Forest Officers Incharge Territorial Forest Division in the State to issue ownership certificate in respect of animals and animal articles belonging to Schedule – II, Part I, Schedule-III and Schedule – IV of Wildlife (Protection) Act, 1972 vide letter No. 2318-45 dated 02-09-2005 **(Appendix-36)**.

The State Government Vide Notification No. 34/18/2004-Ft-V/2781, Dated 06.03.2006 has appointed sub-divisional officers (Civil) having territorial jurisdiction over the sub-divisions of the State **(Appendix-42)** as Authorized officers within their respective territorial jurisdiction for the purpose of section 11(1)(b) of the Wildlife (Protection) Act with immediate effect subject to the condition that the authority shall be exercised only in respect of Rojh (Boselaphus tragocamelus) and Wild boar (Sus scrofa).

1.2 Who are treated as Public Servants for Wildlife Management?

As sec. 21 of the Indian Penal Code (45 of 1860), a public servant is one who has to discharge some public duty. Public Servant shall be deemed to signify any person duly appointed and invested with authority to administer any part of

the executive power of the Government, or to execute any other public duty imposed by law, whether it be judicial, ministerial or mixed.

In the light of above, following are declared as public servant within the meaning of sec. 21 of the Indian Penal Code (45 of 1860)

- (i) Director, Wildlife Preservation, Government of India.
- ii. Chief Wildlife Warden of the State
 - (iii) Wildlife Wardens
 - (iv) Honorary Wildlife Wardens
 - (v) Such other Officers and Employees as appointed by Govt. of India
- vi. Such other Officers and Employees as appointed by State Govt.
 - (vii) Chairperson of Central Zoo Authority of India
 - (viii) Member Secretary, Central Zoo Authority of India
- ix. Such Persons appointed by Central Govt. as Members of Central Zoo Authority of India and
 - (x) All the Forest and Wildlife Officers/Officials including Wildlife Guard and Forest Guard and above.

(See Appendix 18 - Section 59)

1.3 Who shall advise the State Government in Wildlife related matters?

State Government shall constitute the State Board for Wildlife with Chief Minister of the State as its Chairperson. The Board shall consist of total 31 members as per detail below:

| Sr. No. | Position of Members | Total Members |
|----------------|---|----------------------|
| 1 | Vidhan Sabha Member which includes Chief Minister, Forest Minister and three members of State legislature | 5 |
| 2 | Persons to represent NGOs dealing with wildlife | 3 |

| | | |
|---|---|-----------|
| 3 | Persons from amongst eminent conservationists, ecologists and environmentalists including at least two representatives of the Schedule Tribes | 10 |
| 4 | Head of the Departments or their representatives which include Secretary Tribal Welfare | 13 |
| | Total | 31 |

The Board shall advise the State Government in the management of Wildlife and Protected Areas in the State.

(See Appendix 18 - Section 6 to 8)

1.4 What is Hunting?

1.4.1 Hunting means

- a. Killing or poisoning of any wild animal or captive animal and every attempt to do so;
- b. Capturing, coursing, snaring, trapping, driving or baiting any wild or captive animal and every attempt to do so;
- c. Injuring or destroying or taking any part of the body of any such animal or, in the case of wild birds or reptiles, damaging the eggs of such birds or reptiles, or disturbing the eggs or nests of such birds or reptiles.

(See Appendix 18 - Section 2 sub-section 16)

1.4.2 Is Hunting of Wild Animals banned?

Hunting of all wild animals protected under Schedule I, II, III and IV of Wildlife Protection Act is banned in the State.

(See Appendix 18 - Section 9)

1.4.3 Under which circumstances hunting of Wild animal is permitted?

- (i) Wild animals specified in Schedule V of Wildlife (Protection) Act such as rats, crows, mice and fruitbats may be hunted.

- (ii) Wild animals specified in Schedule II, Schedule III or Schedule IV that has become dangerous to human life or property (including standing crops on any land) may be permitted to be hunted by the Chief Wild life Warden of the State or the authorised officer.

(See Appendix 18 - Section 11)

- ii. Chief Wildlife Warden may also allow the hunting of Wildlife animals for education, research, scientific management, captive breeding, collection of specimens for museum/similar institutions and extraction/collection of snake venom from snakes for producing and dealing in life saving drugs.

(See Appendix 18 - Section 12)

1.5 Specified Plants

1.5.1 What are specified Plants?

Plants specified in Schedule VI of Wildlife (Protection) Act, 1972 are called specified plants.

(See Appendix 18 - Section 2 sub section 27)

1.5.2 Are specified Plants Protected?

The export of specified plants and their derivatives is restricted under the provisions of export policy and Convention on International Trade in Endangered Species of wild Fauna and Flora (CITES) to which India is a signatory. The Wildlife (Protection) Act also provides protection to specified plants under section 17-A to 17-H. The act prohibits the picking, uprooting, damage, destroy, acquire or collect, possess, sell, offer for sale or transfer by gift or transport any specified plants or its derivative. However provisions would not affect the collection of traditionally used plants for the bonafide personal use of tribals.

1.5.3 Who can collect and exploit “Specified Plants” and for what purposes?

A person can collect and exploit “Specified plants” with the prior permission of Chief Wildlife Warden for the purpose of education or scientific research or collection, preservation and display in a herbarium of any scientific institution or propagation by a person or an institution.

(See Appendix 18 - Section 17B)

1.5.4 How a person can cultivate or trade in “Specified plants”?

A person can cultivate or trade in “Specified Plants” only with a licence granted by Chief Wildlife Warden of the State.

(See Appendix 18 - Section 17C and 17 D)

1.5.5 Whether “Specified Plants” is a Govt. property?

Every “Specified Plants” shall be the property of State Government.

1.6 Protected Areas

1.6.1 What are Protected Areas?

Any area notified under section 18, 35, 36-A and 36-C of Wildlife (Protection) Act, 1972 is called a Protected Area.

1.6.2 How many Protected Areas have been declared in Punjab?

There are 14 Protected Areas (12 Wildlife Sanctuaries and 2 Community Reserves) in the State (**Annexure 9A and 9B**).

1.7 What is Government Property under the Wildlife (Protection) Act, 1972?

1.7.1 Following are the Govt. Property as described in section 39 of the Act.

(a) Wild animal, other than vermin, which is hunted under various provisions of this Act, 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;

(b) Animal article, trophy or uncured trophy or meat derived from any wild animal referred above in clause (a) in respect of which any offence against this Act or any rule or order made thereunder has been committed;

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

(d) Vehicle, vessel, weapon, trap or tool that has been used for committing an offence and has been seized under the provisions of this Act, shall be the property of the State Government and where such animal is hunted in a sanctuary or National Park declared by the Central Government, such animal or any animal article, trophy, uncured trophy or meat derived from such animal or any vehicle, vessel weapon, trap or tool used in such hunting shall be the property of the Central Government.

[See Appendix 18- See section 39 (1)]

1.7.2 What to do when a person obtains a Govt. Property?

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

[(See Appendix 18- See Section 39 (2)]

1.7.3 Aquisition/transfer etc of Govt. Property

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

- a. acquire or keep in his possession, custody or control or
- b. transfer to any person, whether by way of gift, sale or otherwise or
- c. destroy or damage

such Government property.

[See Appendix 18- See Section 39 (3)]

And also 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 Wild Life Warden or the authorised officer.

No person shall acquire, receive keep in his control, custody or possession any captive animal, animal article, trophy or uncured trophy specified in Schedule I or Part II of Schedule II, except by way of inheritance.

[See Appendix 18- See section 40 (2) & 40 (2A)]

1.8 Wild Animals/Articles/Trophies

1.8.1 What is Wild animals, animal article and wildlife trophies?

- (i) **Wild animal:** Wild animal means any animal specified in Schedules I to IV of Wildlife (Protection) Act and found wild in nature.

(ii) **Animal Article:** 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, an ivory imported into India and an article made there from];

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

(a) rugs, skins and specimens of such animal mounted in whole or in part through a process of taxidermy, and

(b) antler, bone, carapace, shell, horn, rhinoceros horn, hair, feather, nail, tooth, tusk, musk, eggs, nests and honeycomb.

1.8.2 Declaration of Wild Animals/Articles/trophies etc. of Schedule I or Part II of Schedule II of Wildlife (Protection) Act.

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

[See Appendix 18- See section 40 (1)]

(The act has come into force in Punjab State w.e.f. 1st April 1975. Thus the period of 30 days to make declaration as above was lapsed on 30th April 1975).

Further the Central Govt. with an aim to provide another opportunity for declaring the wild animals/Articles/Trophies etc in possession of any person who could not declare the same previously, issued a notification on 18th April 2003 to make such declaration to the Chief Wild Life Warden of the state within 180 days of the date of issue of the notification. This period of declaration has also been lapsed on 17th October, 2003. Therefore all the wild animals/Articles/Trophies which has not been declared so far under the Act becomes under illegal and unauthorised possession of the holder.

1.8.3 Declaration of Animals/ Articles/Trophies etc. of Part I of Schedule II, III & IV

For the purpose of making declaration of Animals/Articles/ Trophies etc. Part I of Schedule II, Schedule III & Schedule IV, the state Govt issued a notification No. GSR 4/CA. 53/72/S-64/2005 dated 7th Feb. 2005 requesting the persons having possession of Animals/Articles/ trophies etc. of Part I of Schedule II, III & IV to declare to the Chief Wild Life Warden or to authorised Officers within 6th months of issue of the notification. All the Division Forest Officers (Territorial) of the State were declared as authorised officers to issue the ownership certificates in this regard.

The time limit for such declaration has also lapsed on 6th August 2005.

1.8.4 Declaration for Inheriting of Animals/ Articles/Trophics etc.

Every person inheriting any captive animal, animal article, trophy or uncured trophy shall within ninety days of such inheritance make a declaration to the Chief Wild Life Warden or the authorized officer and the provisions of section 41 and 42 of the Act shall apply as if the declaration had been made under sub-section (1) of section 40:

[See Appendix 18- See Section 40 (2-B)]

Provided that nothing shall apply to the live elephant.

1.8.5 Procedure for declaration of Wild animal/animal article/cured trophy etc.?

1.8.5.1 How a person can know when to declare wild animals' article?

The Central Government under sub-section 2 and 4 of Section 40 and the State Government under sub-section 4 of Section 40, may by notification require any person to declare to the Chief Wildlife Warden, or authorized officer any animal, or animal article or trophy (other than the musk of musk deer or horn of rhinoceros), or salted or dried skin derived from an animal specified in Sch. I or Part II of Sch. II in his control, custody or possession in such manner, and within such time as may be prescribed.

1.8.5.2. How an application can be filled up or from where the requisite forms can be obtained?

Although the time to declare wildlife stock has already lapsed, various provisions made for such declaration are described briefly as under:

The Government of India in the published Gazette of India, extra ordinary, part- li section-3-sub-section II, No. 365 dated 18th April 2000 has passed Declaration of Wildlife Stock Rules, 2003 vide notification dated New Delhi 18.4.2003. Application forms can be obtained from the office of Chief Wildlife Warden, or any Divisional Forest Officer (Territorial) or they can be downloaded from internet. The necessary forms are enclosed at **Appendix- 24**.

The Chief Wildlife Warden or authorized officer by the State Government shall endorse on every application, the date on which it is presented or deemed to have will presented under the rule and shall sign the endorsement.

On scrutiny, if the application is found to be in order, it shall be duly registered and given serial no. If the application, on scrutiny, is found to be defective, the same shall be returned to the applicant within fifteen days for rectifying the defects and resubmitting the corrected application within fifteen days from the date of its receipt.

If the applicant fails to rectify the defect within the time allowed under sub-rule (3), the Chief Wildlife Warden, or the officer authorized by the State Government in this regard may, by order and for the reasons to be recorded in writing, decline to register the application.

1.8.5.3 Duties of Authorized officers for enquiry related with declaration of wildlife stock pertaining to Schedule I and Part II of Schedule II animal, Animal article, trophies and uncured trophies.

1. Before proceeding for enquiry authorized officer must read the Declaration of Wildlife Stock Rules, 2003.
2. Authorized officer shall study the application of applicant.
3. Authorized officer shall notify to the parties the date, place and time of hearing of the each application.
4. He shall verify the facts mentioned in the application and make such enquiry as may be required.
5. After such notice under section 41 of the Act authorized officer enter upon the premises of a person.
6. Make inquiries and prepare inventories of animal articles, trophies, uncured trophies and captive animals specified in schedule 1 and part II of schedule II.
7. He shall confirm the address of applicant from ration card, passport, election commissioner's voter identity card, pan card, last three months electricity, telephone bills, current bank account or appointment letter if any copy of proof should also be attached.
8. For checking the inheritance, affidavit of first class magistrate, or any legal certificate from Deputy Commissioner for legally declared persons who falls in inheritance list be enclosed.
9. If any will is given by the deceased person then its copy should be enclosed.

10. Detail of wildlife items are to be enclosed.
11. Owner/personal details are to be enclosed.
12. Photographic details are to be enclosed.
13. **Tagging:** For Wildlife trophies like Tiger head, horns of black buck, trophy of panther, which are fixed on a wooden plate will be tagged with a laminated paper given as under. It will be tagged with a laminated paper given as under. It will be tagged with copper wire which will be properly molded and lead seal will be put. The skins of other animals like tiger, panther, black buck, chinkara will be marked with indelible ink by fixing a small paper of 1"x1" size with aeraldite after duly stamping and marking with registration number. The same will be covered with cellophane with feviquick.
14. **Hearing on application *ex parte*:** Where on the date fixed for hearing the application, the applicant fails to appear without intimation, the officer authorized in this regard may at their discretion adjourn or decide the application *ex parte*.
15. **Inquiry by the Authorized Officer:** The officer authorized in this regard shall conduct a detailed inquiry and take all actions as provided in section 41 of the Act.
16. **Communication of order to parties:** Every order passed on the application shall be communicated to the applicant either in person or by registered post free of cost.
17. The case completed as mentioned in Sr. No. 1-16 complete in all respect will be submitted to the Chief Wildlife Warden, Punjab with clear recommendation of authorized officer for the issue of ownership certificate.

1.8.5.4. Who is the competent authority to issue Certificate of Ownership?

The Chief Wildlife Warden, is the competent authority to issue a Certificate of Ownership in a form to a person who in his opinion, is in lawful

possession of any wild animal or any animal article, trophy, or uncured trophy belonging to Schedule I and Part II Schedule II of Wildlife (Protection) Act, 1972.

1.8.5.5. What is the significance and importance of Ownership Certificate?

Any wild animal or any animal article, trophy, or uncured trophy kept without ownership certificate is an offence, which can lead to the punishment which shall be punishable with imprisonment for a term which shall not be less than 3 years but may extend to 7 years and also with a fine which shall not be less than 10000 Rupees. Always keep Ownership certificate issued by Chief Wildlife Warden, in safe custody.

No person can transfer or gift any trophy without the prior intimation and confirmation of Chief Wildlife Warden, Punjab.

1.8.6 Ownership Certificate

This Chief Wild Life Warden may for the purposes of declaration made regarding Animals/Trophics/ articles etc of Schedule I and Part II of Schedule II and the authorised officer may for the purposes of declaration made regarding Animals/ Trophics/ articles etc. of Part I of Schedule II Schedule III & IV, issue a certificate of ownership in a prescribed form to any person who in his opinion, is in lawful possession of such Wild Animals/ trophics/Articles etc. after making proper inquiry and preparation of inventories.

(See Appendix 18- See Section 41 & 42)

1.8.7 Regulation of transfer of Animals/Article/Trophy etc.

No person having in his possession captive animal, animal article, trophy or uncured trophy in respect of which he has a certificate of ownership shall

transfer by way of sale or offer for sale or by any other mode of consideration of commercial nature, such animal or article or trophy or uncured trophy.

- a. Where a person transfers or transports from the State in which he resides to another State or acquires by transfer from outside the State, any such animal, animal article, trophy or uncured trophy in respect of which he had a certificate of ownership, he shall, within thirty days of the transfer or transport, report the transfer or transport to the Chief Wild Life Warden or the authorised officer within whose jurisdiction the transfer or transport is effected.
- b. Nothing in this section shall apply-
 - i. to tail feather of peacock and the animal article or trophies made therefrom;
 - ii. to transfer of captive animals between recognised zoos subject to the provisions of section 38-I, and transfer amongst zoos and public museums.

(See Appendix 18 - See Section 43)

1.8.8 Dealing in trophies/ Articles etc.

The Chief Wild Life Warden of the state may issue in a prescribed form, the following typed of licences to persons who intends to do so

- a) Commence or carry on the business as –
 - i) a manufacturer of or dealer in, any animal article or
 - ii) a taxidermis; or
 - iii) a dealer in trophy or uncured trophy; or
 - iv) a dealer in captive animals; or
 - v) a dealer in meat; or
- b) Cook or serve meat in any eating house.

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 had 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.

No person shall commence or carry on a business as given above without getting the licence as described above.

(See Appendix 18 - See Section 44)

The prescribed fees for the licences to be granted is given in **Table -1** below:

Table -1

Fees for permit/licence

| S. No. | Type of Permit/Licence | Fee per year |
|---------------|---|---------------------|
| 1. | For education | 500.00 |
| 2. | For scientific research | 500.00 |
| 3. | For scientific management | 500.00 |
| 4. | A dealer in captive animals | 2000.00 |
| 5. | Collection Derivation or preparation of snake venom | 5000.00 |
| 6. | A dealer in snake venom | 5000.00 |
| 7. | Manufacturer of or dealer in animal article | 2000.00 |
| 8. | A taxidermist | 2000.00 |
| 9. | A dealer in trophy and uncured trophy | 2000.00 |

Every dealer/license holder have to maintain the proper record of his work/business and to submit the monthly returns as per given in the Act and rules made there under to Chief Wild Life Warden or authorized officer.

1.8.9 Purchase/ Acquisition etc of Wild Animal

No person shall purchase, receive or acquire any captive animal, wild animal (other than vermin), or any animal articles, trophy, uncured trophy or meat derived there from otherwise than from a dealer or a person authorized to sell or otherwise transfer the same under this Act.

Provided that nothing in this section shall apply to recognized zoo subject to the provisions of section 38(l) or to a public museum.

1.9 Prevention and Detection of Offences:

1.9.1 Powers to Officers/Officials under section 50 of Wildlife (Protection) Act, 1972.

Following officer/ officials are empowered to detect the offences under the act.

1. Director Wild Life of India or any other officer authorised by him.
2. The Chief Wild Life Warden of the State or any other officer authorised by him.
3. Forest officials not below the rank of Forest Guard.
4. Wildlife officials not below the rank of Wild Life Guard.
5. Police officer not below the rank of sub inspector of police.
6. Other officers authorized by the Central Govt. in this behalf. These officers/ officials can do or act as under:-
 - a. required any such person to produce for inspection any captive animal, wild animal, animal article, meat [trophy, uncured trophy specified plant or part or derivative thereof] in his control, custody or possession, or any license, permit or other document granted to him or required to be kept by him under the provisions of this Act. 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.
 - b. 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 kilometers, of a sanctuary or National Park, inadvertently enters on a boat, not used for commercial fishing in the territorial waters in that sanctuary or National Park, a fishing tackle or net on such boat shall not be seized.

- c. 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 license or permit is required under the provision of this Act, for the purposes of requiring such person to produce the license or permit and if such person fails to produce the license 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 proceeding which may be taken against him.

[See Appendix 18- See Section 50 (1)]

1.9.2 Production before a Magistrate and intimation to the Chief Wild Life Warden

Any person detained or thing seized under the foregoing powers shall forthwith be taken before a Magistrate to be dealt with law. The intimation of it has also to be given to the Chief Wild Life Warden or officer authorized by him in this regard.

(See Appendix 18- See section 50 (4))

As per the provision given in section 57 of Criminal procedure code (Cr. PC) The person detained/ arrested has to be produced before the Court with in 24 hours of the arrest/detention made.

1.10 Procedure to deal with wildlife offences.

When an officer/official exercising the powers given to them under section 50 of the Wildlife (Protection) Act, detect any wildlife offence, he shall follow the following procedure.

1.10.1 (a) Penalties and arrests under Wildlife (Protection) Act

Penalties prescribed under Wildlife (Protection) Act, 1972 is given in Table -2 below:

Table – 2

Penalties under Wildlife (Protection) Act, 1972

| | |
|--|----------------------------------|
| ● Contravenes provisions except V A & 38J | up to 3 years/Rs. 25000/both |
| ● Offence for Sch-I or Sch-II (ii) + hunting | >3 years – 7 years & Rs.10000 |
| ● Second/subs. offence | >3 years – 7 years & Rs. 25000 |
| ● Contravenes V A | >3 years – 7 years & Rs.10000 |
| ● Contravenes 38 J | Upto 6 months/Upto Rs. 2000/both |
| ● Second/ subs. offence | Upto 1 year/ upto Rs. 5000 |
| If convicted, Court may order wildlife seizure, transport seizure -> forfeiture to Government & cancellation of license (in addition to punishment). | |

As it is clear from the table given above, any person who contravenes any provision of wildlife Act (Except Chapter VA and Section 38-J) or any rule or order made there under, be punishable with imprisonment for a term which may extend up to three years.” meaning thereby that such offences are non bailable offence as per section 511 of CrPC. Therefore the accused person/s/is/ are required to be arrested in such cases.

And wherever any wildlife offence comes in the knowledge of officer/official or if he has reasonable ground for believing that any person has committed an offence against Wildlife Act, it shall be lawful for him to arrest or try to arrest the person. For this purpose he can seek help of other staff/official or forest staff/officials or police or other person from the villages. If the offender escapes or creates any hindrance in the arrest then the concerned staff will inform regarding this to the nearest police and seek their help to arrest such person. Whenever help is asked from an individuals/official /officer in this regard, it shall be duty of those persons to provide help under section 50(7) of wildlife Act.

The arrested person should immediately be produced to the local magistrate or duty magistrate after proper interrogation and the rest of the action will be made as per the direction of the court. It is must to produce the offenders to the court within 24 hours from the time of arrest. In case of difficulty in producing the accused within 24 hours for the genuine and admissible reasons, the person can be produced to the Executive Magistrate like Naib Tehsildar, Tehsildar or S.D.M of the area. In case of incomplete complaint application, a simple application can be given to produce the offenders. The application format is at **Annexure- 1**. The arrested accused till their production before the court are required to be handed over to the nearest police station/police Chowki for their safe custody. For this purpose an application indicating the name and address of the accused should be given to the Incharge Police Station / Police Chowki and receipt be taken from the police station on the office copy. It is required

to be mentioned in the application that accused are handed over to them for safe custody till their production before the court. The responsibility to take the accused back from the police station/police chowki and produce to court or sent to the jail shall be with the arresting official/officer though he can seek help from the police.

1.10.1 (b) Arrest by a Public Man

All types of offences under the Act (except the offence related to teasing etc of animal in a zoo) are non-bailable & cognizable offence. So as per provision of section 43 of Cr. P.C. any public man can also arrest an offender under the Act and also can seize any arm etc. in his possession. The accused so arrested and arms seized in this way have to be handed over as soon as possible to the officer authorized to detect the case.

1.10.1(c) Preparation of Arrest Report

The officer/official arresting the offender shall prepare a report on the spot in which he will mention the date, time and place alongwith description of offence, sections of wildlife act which had been violated and the sections of the Act under which accused had been arrested. The arresting officer/official shall inform to its nearest relative about the arrest of accused and also where the accused is going to be taken. The arresting official/officer shall mention it on the arrest report and shall obtain signature of the important person of the area. A copy of report so prepared shall be given to such person.

1.10.2 Seizure and preparation of seizure report

The concerned officer/staff have to seize the tool, animal, or any animal article or meat, trophy, horns, vehicle and weapon etc. used in the offence, from the place of offence. All these articles shall be govt. property under section 39 of wildlife Act. If any offender doesn't hand over the articles used in the offence a report regarding this will be submitted to the nearest police station and seizure will be made with their help.

The articles used in the offence shall be seized by making a seizure report of these articles. The specimen of seizure report is attached as **Annexure- 2**. The seizure report shall be signed

by the witness present as well as by the offenders if possible. The seizure report shall be made in triplicate. Two copies of this seizure report will be sent to wildlife inspector/Warden/Range officer (alongwith seized articles) and the third copy will be kept by wildlife guard/Forest guard.

If the seizure is to be made by the wildlife guard or forest guard, he should have to hand over the seized articles to the wildlife Inspector or Wildlife Warden/Range Officer of the concerned area as soon as possible. The Wildlife Inspector or Warden/Range Officer will produce the seized articles such as dead body of the animal, meat, skin or trophy etc. before the local veterinary officer for postmortem or examination report. The specimen for postmortem examination is at **Annexure-3** and the other articles such as weapons, tools, vehicles etc. shall be produced to the area magistrate as per section 50 (4) of Wildlife (Protection) Act, 1972. Whenever the Wildlife Inspector or Warden/Range Officer receive the case property from the wildlife guard or forest guard, he will first make its entry in relevant form (**Annexure-4**) before production to the court. A fresh page will be allotted to each case and all the concerned entries shall be made there only. The seized arms/cartridges etc. are required to be deposited in the safe custody of Mall Khana after taking orders from Magistrate/duty Magistrate and receipt be taken from Mall Khana official on the office copy. If the court does not grant permission to deposit arms in the Mall Khana then concerned officer/official shall be responsible for its safe custody and he shall be responsible for its production to the court at the time of the charge/precharge evidence.

1.10.3 Preparation of First Information Report (FIR)

The First Information Report of the offence shall be made in triplicate as per specimen given in **Annexure- 5** along with seizure report on the spot. The FIR shall have the signatures of the witness if present and the offenders if possible. After this the staff will take further action.

A brief description of the seized article has to be given in the FIR along with the names of the offender caught as well as those who escaped.

1.10.4 Preparation of the site Map

A map of the place of offence/scene of crime is to be made in which the detail of nearby roads (with distance) direction and the description of the surrounding area, terrain viz, hilly, plains, forest land or agricultural land will be included as far as possible.

1.10.5 Reports to be submitted

Whenever any Wild Life Guard or Forest Guard prepares an FIR in any offence, he will send this in duplicate to Wildlife Inspector/Warden or Range Officer along with the seizure report and sized articles. After this, a separate report of the rest of exercise and action taken by the forest guard will be sent to the concerned officer. The Wildlife Inspector/Warden or Range Officer will send one copy of FIR to concerned DFO who will send one copy to Chief Wildlife Warden as soon as possible.

1.10.6 Exercise by the lodging authority

If any discrepancy is found in the reports sent by Wildlife Guard or Forest Guard, the officer, who will file the case, can send it back to the forest guard to remove such discrepancies. If after receiving the case and the reports, some more evidence or article related to case property (weapons, vehicles, animals etc.) are required to be seized then the case lodging officer will do the needful by making a separate report before filing the case in the court.

1.10.7 About the FIR register

Wildlife Inspector/Warden or other area In-charge will maintain the FIR register in his office as per the format given in **Annexure - 6**. Whenever he receives or himself prepares any FIR he will first enter it into this register. He will also ensure to update complete all the columns on the basis of the further action taken by him from time to time. Forest Guard/Wildlife Guard shall also maintain his FIR register separately.

1.10.8 Bailable/Non Bailable offence

All offences relating to Wildlife Protection Act (Except violation of section 38 J of Act.) which pertains to animals of Schedule III, or IV or in an area outside the sanctuary where the minimum punishment has been prescribed upto 3 years imprisonment shall be non bailable offences as per CrPC Section 511 and the offenders are required to be arrested and produced before Magistrate, In such cases accused does not have the right to obtain bail from the court rather the discretion shall be with the court.

In cases where provision for conviction is less than 3 years imprisonment as in case of violation of section 38J of Wildlife (Protection) Act, such cases are classified as bailable offences.

1.10.9 Lodging of complaints

As per section 55 of wildlife (Protection) Act, 1972 and section 40 of Punjab Wildlife (Protection) rules 1975 (**Annexure - 7**) the following officials are authorized to file the case in the court on violation of wildlife act.

1. Chief Wildlife Warden
- 2 Range Forest officer and higher officials
- 3 Sub Inspector of police and higher officials.
- 4 Wildlife Inspector and higher officials
- 5 Officer incharge of zoo in case of zoo related offence.
- 6 Any individuals who wants to file a case and has served a notice of not less than 60 days to court in a prescribed manner.

When a case is complete in all respects the concerned inspector or warden or area official will file the complaint (along with complete case file) in the court. He will get the case vetted by District attorney or Public Prosecutor before filing. For the cases inside the sanctuary area or of the animals related Schedule 1 or part 2 of the Schedule II or the trophies related to these animals or some other important cases, it should be ensured to get these vetted by Distt. Attorney or Public Prosecutor before filing in the court.

It is to remember that no court can take any action after three years from the date of offence or the date of information of the offence. In that event the full responsibility is of the concerned Inspector/ Warden or the area in charge. When any case is caught by DFO or any other senior official, the case can be directly filed through territorial In charge of the Department.

1.10.10 Prosecution register

The Prosecution register will be maintained in the offices as per **Annexure-8**. With the filling of case in the court, it will be entered in this register with the next date of hearing and the proceedings will also be mentioned. A separate page will be used for each case.

1.10.11 Group checking or special checking

If any official from another district or area comes for group checking, he shall hand over the case to the local Wildlife Guard or Wildlife Inspector or Warden/Forest Guard/Forest Range Officer in charge of that area. After that the local area in charge staff/officer will be responsible for further action to be taken in the case.

1.10.12 Pursuing the Court cases

Although the cases which are filed through Public Prosecutor or District Attorney are pursued by Public Prosecutor themselves, still for those cases which are directly filed in the court, the area Incharge/Warden/Inspector/Range Officer will be responsible to attend and pursue them. Besides they will also be responsible to produce material evidence and to see that the prosecution is completed. The guidance or help of the Public Prosecutor or Distt. Attorney can be taken whenever needed.

1.10.13 To file the case

If the officer, who filed the case, feels that there are irremovable discrepancies in the case or the case is not suitable for the court proceedings or the offenders are untraceable, then he can file the case FIR and will report this to the Chief Wildlife Warden.

These filed cases can be reopened after tracing the offenders and can be filed in the court within three years from the date of offence or the date of information of the offence.

1.10.14 Important Note :-

- 1 All the facts of the offence must tally in all the reports as FIR seizure report diary, progress report the application produced in the court and compliant etc.
- 2 The Distt. Attorney/Public Prosecutor or Higher officials can be consulted in case of any problem.
- 3 The name and identity of informer in a case should be kept confidential in all respects.
- 4 As per section 50 of the Act, before searching the home, office, working place etc. of any offender, it should be ensured to take along eminent local person of the village/town village Panch, Sarpanch, Numbardar, Chowkidar or any other person. This should also be ensured to get the search report duly signed by these persons as well as concerned person/accused as far as possible.

Note:

- 1 The concerned official will be responsible in case of any charge in the amount of compensation.
- 2 No such article which is a Govt. property under section 39 can be released even after payment of compensation.
- 3 No compensation can be accepted for the offences committed with in National Parks or Sanctuaries or in relation with the animals of Schedule 1 and Part 2 of Schedule II. These cases can only be filed in the courts.
- 4 The amount of compensation must not exceed to Rs. 2000/-.

1.11 Penalties:-

The penalties prescribed under the Act have already been given in Table-2, Para 1.10.1(a). The details of penalties for violating any provision of this Act or Rule made thereunder is categorized as under:-

1. Penalty for violation in a Zoo i.e. teasing, molesting, injuring, feeding or disturbing etc. of the animals or filtering the ground in a zoo, is punishable with imprisonment for a

term which may extend to six month or fine which may extend for two thousand rupees or with both.

(See Appendix 18 - Section 51 (1-B))

2. Where the offence committed is in relation to any animal specified 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 a sanctuary or a National Park 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 three years but may extend to seven years and also with fine which shall not be less than ten thousand rupees.

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

3. Penalty for contravening of provisions pertaining to chapter VA of Wildlife (Protection) Act shall be punishable with imprisonment for a term which shall not be less than three years but may extend to seven years and also with fine which shall not be less than ten thousand rupees.

(See Appendix 18 - Section 51 (1-A))

4. Penalty for remaining category of offences i.e. offences related to Animals of part I of Schedule II, Schedule III & Schedule IV and outside of the Sanctuary/National Park area shall 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.

Additional Penalties:-

1. 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, 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 and any trap, tool, vehicle, vessel or weapon, used in the commission of the said

offence be forfeited to the State Government and that any license or permit, held by such person under the provisions of this Act, be cancelled.

2. Such cancellation of license or permit or such forfeiture shall be in addition to any other punishment that may be awarded for such offence.
3. Where any person is convicted of an offence against this Act, the Court may direct that the license, if any, granted to such person under the Arms Act, 1959 (2 of 1974), or possession of any arm with which an offence against this Act has been committed, such be cancelled and that such person shall not be eligible for a license under the Arms Act, 1959 (54 of 1959) for a period of five years from the date of conviction.

Attempt and Abetment:

When any person attempt or abet to violate any provision of this act or rule made thereunder, it shall be deemed that he have violated/contravened that provision.

1.12 Compounding the Wildlife offences

As per section 54 of Wildlife (Protection) Act, State Government may empower Chief Wildlife Warden or Forest Officer not below the rank of Deputy Conservator of Forests 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.

Offence related to the Animal/Articles/ trophies etc. of Schedule I and Part II of Schedule II and offence in a sanctuary cannot be compounded.

The amount of compensation so realized should not exceed sum of twenty five thousand rupees in a case.

If an offender admits his crime and gives in writing to pay the compensation for the offence by him to the concerned officer can accept the compensation amount as per rate, fixed by the Chief Wildlife Warden and issue a copy of receipt to the offender immediately. It is must to take in writing the confession of the offence by the offender. This written statement can be taken separately by each offender.

After taking the compensation, the offenders (If held) and those seized articles which are not the govt. property under section 39 can be released. The amount of compensation is to be deposited in the treasury in departmental head by chalan 32-A and to be entered in the cash book. After completion of all formalities the case is to be sent to Chief Wildlife Warden, Punjab for approval.

(See Appendix 18 - Section 54 & rule 40-B)

Wildlife (Protection) Act, 1972 is attached as Appendix 18 for ready reference. Similarly Central Rules and State Rules under Wildlife (Protection) Act, 1972 have been attached from Appendix 19 to Appendix 25 and Appendix 26 to Appendix 42 respectively.

Various notifications related to Protected Areas are attached as Appendix 43 to Appendix 51. In addition Misc. Notifications are attached as Appendix 61 to Appendix 63.

Important judgements from Hon'ble Supreme Court of India and different High Courts in the country are attached as Appendix 52 to Appendix 60.