

EXPLANATORY NOTE TO PROPOSED AMENDMENTS TO THE WILD LIFE (PROTECTION) ACT, 1972

SECTION	ORIGINAL PROVISION	PROPOSED AMENDMENT	REASON
Section 2(17A) Leg-hold Trap	New sub-section	Definition of 'leg-hold traps' to be inserted by the Amendment Act.	Section 2(17A) seeks to provide a comprehensive definition of 'leg-hold traps', the manufacture, sale and use of which has been prohibited by the new section 9A.
Section 2(37A) Scientific Research	New sub-section	Definition of 'scientific research' to be inserted by the Amendment Act.	Section 2(37A) provides the definition for the term 'scientific research' which has been used in sections 12, 12A, 17B(b).
Section 2(15) Habitat	Habitat is currently defined as including land, water or vegetation which is the natural home of any wild animal.	The amendment seeks to add the term 'specified plant' after 'any wild animal'.	Since the Wild Life Protection Act seeks to protect both plants and animals, the definition of 'habitat' is sought to be widened to include the natural home of specified plants.
Section 2(16)b Hunting	Section 2(16) of the Wildlife Protection provides the definition of Hunting. The act of electrocuting an animal is not explicitly covered under the present definition of hunting.	The word 'electrocuting' has been inserted into section 2(16)b after the word 'trapping'.	Electrocuting is one of the means used to hunt certain wild animals. By including the term 'electrocuting' in the definition of hunting, the Amendment Act seeks to explicitly make the act of electrocuting an animal a punishable offence.
Section 2(24) Person	Under the current Act, 'person' has been defined as including a firm.	The Amendment Act seeks to broaden the definition of 'person' to include, not only a firm but also a body corporate, any department of the Central or the State Government or any authority or any other association of persons whether incorporated or	The present definition of 'person' under the Wild Life Protection Act is too narrow. Body corporate, government departments, authorities or any association of persons are not covered by the act since they don't fall within the present definition of 'person'.

		not.	
Section 2(36) ‘Wild animal’	Wild animal is defined as any animal specified in Schedules I to IV and found wild in nature.	The phrase ‘and found wild in nature’ is sought to be replaced by ‘or found wild in nature’.	The definition of wild animal is sought to be amended so that it includes within its ambit all animals in Schedules I and IV, even if they are not found in the wild. This is necessary otherwise the prohibition on hunting in Section 9 does not clearly apply to wild animals that are kept in captivity.
Section 9a Prohibition of manufacture, sale and use of leg hold traps	New section Currently, as per the Act, the possession of a trap is an offence only inside a protected area. The manufacture and sale of traps are not offences under any law.	The Amendment Act seeks to prohibit the manufacture, sale and use of leg hold traps.	Leg hold-Traps are mainly used to hunt animals like the tiger and the leopard. They can even cause grave damage to human beings. The use of such a trap is a violation of the Prevention of Cruelty (Capture of Animals) Rules, 1979. Therefore it is necessary to explicitly ban the manufacture, sale and use of these traps
Section 12A Grant of permit for scientific research	New section	The Chief Wildlife Warden shall be empowered by the new section to provide permits for scientific research subject to the rules framed by the Central Government	Currently, the Act only provides vague exceptions in Sections 12, 17B and 28 for ‘scientific research’. The Amendment Act seeks to replace this with a proper regulatory framework for scientific research which allows scientists to apply for permits and requires accountability of the Chief Wildlife Warden in disposing of such applications.
Section 21(b) Proclamation by Collector	Once a State Government has declared its intention to constitute an area into a sanctuary, under section 21(b), 2 months time is given to any person to claim any right on any part of the land in that area.	The Amendment Act seeks to replace ‘2 months’ with ‘6 months’	This is so as to give people residing in areas that are intended to be declared as Sanctuaries or National Parks more time in which to proffer their claim to land rights in the area to the Collector.

<p>Section 22 Inquiry by collector</p>	<p>In the current section, when a claim is made by a person on any part of the area to be declared as a sanctuary, the records of the State Government are examined by the collector to ascertain the claim.</p>	<p>The words '<i>the Gram Sabha</i>' is sought to be included after the words 'the records of the State Government'.</p>	<p>The records of the State Government often do not reflect the rights of people who live in remote areas such as forests. The Amendment Act seeks to broaden the sources that the Collector may examine to ascertain the existence of rights</p>
<p>Section 29 Destruction, etc., in a sanctuary prohibited without a permit</p>	<p>Section 29 of the Act prohibits destruction, exploitation, etc in a Sanctuary. Currently, the explanation to Section 29 only exempts the grazing and moving of cattle which has been permitted by the Chief Wildlife Warden under Section 33(d)</p>	<p>The Amendment Act seeks to exempt all acts that have been permitted under Sections 33, 11 and 12, all rights that have been permitted to continue under Section 24(2)(c) and the bonna fide use of drinking and household water by local communities.</p>	<p>Serious consequences ensue from a violation of Section 29. The amendment ensures that Section 29 cannot be misused to target acts that have been permitted, and the bonna fide use of water.</p>
<p>Section 32 Ban on use of injurious substances</p>	<p>This section bans the use of chemicals, explosives or other injurious substances in a sanctuary.</p>	<p>The amendment seeks to insert '<i>or equipment</i>' in the list of injurious things banned in a sanctuary.</p>	<p>It has been noticed that a lot of damage occurs inside sanctuaries not just from 'chemicals and other substances' but from bulldozers, chainsaws and other machinery. The inclusion of the word 'equipment' is meant to cover such cases as well.</p>
<p>Section 35 Declaration of national parks</p>	<p>Under Section 35(8) several provisions that are applicable to Sanctuaries are made applicable to National Parks as well.</p>	<p>The Amendment Act makes Section 18A applicable to National Parks as well.</p>	<p>This will ensure that a crucial section that applies to sanctuaries will apply to National Parks as well and that they will receive better protection.</p>
<p>Section 36D Community Reserve Management</p>	<p>Community Reserve Management Committee consists of 5 representatives nominated by the Village Panchayat or where such</p>	<p>The Amendment Act seeks to remove the numeric requirement of five representatives and also provides that where a Community Reserve is located on private land, the</p>	<p>Given the varying size of village panchayats (where they exist), as well as the fact that a "Community Reserve" can be created on private land as well, a precise specification of the number of Gram Sabha members would not be useful.</p>

Committee	Panchayat does not exist, by the members of the Gram Sabha and one representative of the State Forests or Wildlife Department.	Community Reserve Management Committee shall consist of the owner of the land and a representative of the State, Forests or Wildlife Department.	
Section 39(1)a Wild animals etc., to be government property	The current section declares all wild animals (other than vermin) which are hunted under section 11,29(1) or 35(6), bred in captivity or hunted in contravention of any provision of the Act and found dead or killed by mistake, to be government property. This section does not apply to plants at present.	The Amendment Act seeks to incorporate the phrase “ <i>or specified plant picked, uprooted, kept, dealt with or sold</i> ” after ‘bred in captivity or hunted’	The Wild Life Protection Act seeks to protect both plants and animals. This phrase is sought to be included in the present section to ensure that a specified plant shall be government property and cannot be acquired, transferred or destroyed by any person, without the prior permission of the Chief Wild Life Warden.
Section 39(1)a Wild animals etc., to be government property	New sub-sections	The Amendment Act seeks to bar the application of Section 451 of the Code of Criminal Procedure and insert a new administrative procedure for vehicles and vessels seized under Section 39(1)(d), until the trial of a case is concluded	The Supreme Court in the case of <i>State of Madhya Pradesh v. Madhukar Rao</i> has held that a vehicle only becomes Government property once a court finds that it was in fact used in the commission of an offence under the Act. In the interim, the owner of the vehicle is allowed to file an application under Section 451 of the Code of Criminal Procedure to re-possess the vehicle. Seized vehicles should only be returned to an owner in extra-ordinary cases such as when it is a stolen vehicle. The amendment seeks to modify the law in this respect by barring the application of Section 451 and introducing an administrative procedure for seized vehicles. The decision reached through this procedure will be final until the trial of the case is completed.

<p>Section 43(3)(a)</p> <p>Regulation of transfer of animal, etc.</p>	<p>Section 43 prohibits the transfer of any captive animal or any trophies or articles, made therefrom to another person by way of sale, or through a commercial transaction. However, Section 43(3)(a) draws out an exception for the peacock tail feathers, and any articles and trophies made therefrom.</p>	<p>Section 43(3)(a) is sought to be repealed.</p>	<p>Keeping in mind the rampant poaching of peacocks, the amended law seeks to prohibit the trade in peacock tail feathers and articles and trophies made from it.</p>
<p>Proviso to Section 44(1)</p> <p>Dealings in trophy and animal articles without licence prohibited</p>	<p>Section 44 prohibits a person from dealing in animal articles and trophies, except in accordance with the terms of the licence granted under this Act. The proviso to this section exempts the application of this section to dealers and manufacturers of articles and trophies made from peacock tail feathers.</p>	<p>The Amendment Act seeks to add three provisos to the present section 44. The 1st proviso exempts the application of the section to individuals using peacock tail feather and articles made therefrom for religious purposes only. The 2nd proviso requires all persons who have such articles in their possession to declare such items with the Chief Wildlife Warden. The 3rd proviso prohibits a person having a certificate of ownership to transfer these items to any other person by way of sale or through any commercial transaction.</p>	<p>In order to effectively implement the prohibition on trade in peacock tail feathers and articles and trophies made from it, it is essential that every person in possession or custody of such articles make a declaration and acquire an ownership certificate from the Chief Wildlife Warden. Transfer is prohibited even after the ownership certificate has been granted as this would amount to a violation of the prohibition on trade. Possession of such articles for religious purposes has not been prohibited keeping in mind the traditional use of peacock tail feathers and articles made therefrom for religious purposes.</p>
<p>Section 44(10)</p> <p>Dealings in trophy and animal articles without license prohibited</p>	<p>New sub-section</p>	<p>The proposed Section 44(10) shall prohibit any person/ dealer/ trader/ manufacturer, who is carrying on business in peacock tail feathers and articles made from it from continuing with such business.</p>	<p>This sub-section is sought to be inserted to prevent large scale manufacture and trade in peacock tail feathers and articles made therefrom.</p>

		Persons who before the commencement of this provision, who were carrying out such business/occupation shall be given a time period of 30 days to dispose of such articles.	
Chapter VB (section 49D-49O) Regulation of trade in endangered species of wild fauna and flora	New chapter		India is a signatory to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). Chapter VB (section 49D-49O), seeks to include certain provisions in the Act to fulfil India's obligations under the CITES Convention.
Section 50(1) Power of entry, search arrest and detention	The present sub-section gives certain officers the power of entry, search, seizure, arrest and detention.	The Amendment Act seeks to add any officer authorised by the Management Authority and custom officer not below the rank of an inspector, to the list of officers empowered under section 50(1)	Management Authority and customs officer is sought to be inserted by the Amendment Act because of the inclusion of the new sections 49D-O and 50 (10)-(12) respectively
Section 50(4) Power of entry, search arrest and detention	Under the present section 50(4), all detained persons and seized goods must be produced before the Magistrate to be dealt with in accordance with law.	The Amendment Act further empowers the Magistrate to detain the accused in the custody of the forest department for a period of upto seven days, in order to facilitate investigation, if he is of the opinion that a prima facie case exists against the accused.	Explicitly gives the forest department the power to ask the Magistrate to allow an accused to be kept in custody of the forest department for the purpose of investigation.
Section 50(10)-(12) Power of entry, search arrest and detention	New sub-section The WCCB does not have any powers under the present section.	Under the proposed amendments, three sub-sections have been inserted at the end of section 50. Section 50(10) provides the WCCB similar powers to of the Narcotics Bureau in terms of controlled delivery of	Sub-sections 50(10), 50(11) and 50(12) have been incorporated by the amendment with the intention to give more power to the WCCB and police officials.

		consignments. Section 50(11) empowers police officers to take charge of seized goods, when the matter is pending trial before the Magistrate. Section 50(12) imposes a legal obligation on all officers to assist each other.	
Section 50A Government Scientific Expert Body	New Section	The Amendment seeks to give the Central and State Government the power to appoint a scientific expert body when required.	This section is sought to be inserted to ensure that the Government explicitly has the power to appoint a scientific expert body when required.
Section 51 Penalties	The current section provides penalties for various offences under this Act.	The present section 51 is sought to be substituted by a completely new provision in the Amendment Act. Under the new section, the penalties for the offences have been increased and trade in wildlife and articles made therefrom has been made a separate offence.	The current provision on penalties has been criticised for being ineffective. The Amendment Act has made the penalties more stringent so that it has a deterrent effect on wildlife crime. Trade in wildlife and wildlife articles is a serious crime and the Amendment Act has prescribed higher penalties for trade in wildlife articles.
Section 52A Punishment for allowing premises, etc., to be used for commission of an offence	New Section	The owner or occupier of the premises used to commit any offence under this Act shall be punishable as per the penalty provided in section 51.	This amendment is sought to be incorporated into the Act to ensure that any person who allows his premises to be used for unlawful purposes does not go unpunished.
Section 55(ad) Cognizance of Offences	New sub-section	The new sub-section seeks to include Management Authority or Officer of the Wildlife Crime Control Bureau in the list of officers enumerated in section 55, on whose report the court can take cognizance of the offence.	Management Authority and Officer of the Wildlife Crime Control Bureau is sought to be inserted by the Amendment Act because of the inclusion of the new sections 49D-O and 50 (10)-(12) respectively.
Section 55(d)	New sub-section	The Amendment Act seeks to insert a	The introduction of this provision could play a

Cognizance of Offences	The present law provides that no court can take cognizance of offences except on the complaint of certain specified officers.	sub-section at the end of section 55, empowering the court to take cognizance of an offence under the act on the submission of a report by a police officer under section 173 of the Criminal Procedure Code.	crucial role in reducing delays in the trial and prosecution of offences under the Act by doing away with the requirement of adducing pre-charge evidence when the investigation of the offence has been conducted by the police and a report has been filed under Section 173 of the Code of Criminal Procedure.
Section 58(J) Burden of proof	In the current section 58J, the person affected has to prove that the property specified in the notice under section 58H is not illegally acquired.	Under the amended section, the burden of proving that the property in question is exempted under the proviso to Section 58C(2) of this Act shall also lie with the person affected.”	Under the proviso to section 58C(2) the provisions of Chapter VIA does not apply to property acquired by a person before a period of 6 years from the date on which he was charged for an offence relation to illegal hunting and trade of wildlife and its products. 58J of the Act casts the burden of proving that any property specified in the notice served under section 58H is not illegally acquired property on the person affected. The amendment clarifies that the burden of proving that the property falls under the exemption provided for in the proviso to section 58C(2) shall also lie on the person affected.
Section 63 Power of Central Government to make rules	New subsection	Additional rule making powers are being given to the Central Government under the proposed Section 63(1)(aii) , Section 63(1)(ji-jiv) and Section 63(1A). The Central Government will now also have the power to make rules regarding the terms and conditions of service of the Management Authority, holding specimens and manner for furnishing reports.	These sub-sections are sought to be included in the Amended Act to empower the Central Government to make the rules it is required to make under the Amendment Bill.