

The Elephants Preservation Act

- **Section 3 - Killing and capture of wild elephants prohibited**

Note: This section makes it illegal to kill, hurt, capture a wild elephant unless it is in defence of human beings, or property. or such person has a license to do so.

It is important to note that even the mere attempt to kill, injure or capture an elephant whether successful or unsuccessful, is illegal.

In West Bengal only, there is an addition to this Section because the State legislation added a Section 5A to apply only in West Bengal. It states that a person can kill/injure/capture or attempt to kill/injure/capture an elephant if it falls under the purview of Section 5A.

No person shall kill, injure or capture, or attempt to kill, injure or capture, any wild elephant unless—

- (a) In defence of himself or some other person;
- (b) When such elephant is found injuring houses or cultivation, or upon, or in the immediate vicinity of, any main public road or any railway or canal ; or
- (c) As permitted by a license granted under this Act.

STATE AMENDMENT

Bengal Amendment :- By Bengal Act 5 of 1932 the following new clause was added to section 3.

- (d) such elephant is proclaimed under section 5-A.

- **Section 5 - License to kill and capture wild elephants:**

Note: This section provides the only exceptions wherein it is legally permissible to kill or capture an elephant. This is through a license granted for the rest of the country.

However, specifically in West Bengal, as per Section 5A, an elephant may be killed or captured

if the Collector or Deputy Commissioner is satisfied that it is necessary to do so due to danger to human lives and property.

The collector or Deputy Commissioner of any district may, subject to such rules as may for the time being be in force under this Act, grant licenses to kill, or to capture, or to kill and capture, wild elephants in such district:

Provided that no such license shall authorize any person to enter upon any land without the consent of the owner or occupier thereof.

STATE AMENDMENT

Bangal Amendment.- By Bengal Act 5 of 1932 the following new section was inserted after section 5:

“5-A. Proclaimed elephants may be killed.- The Collector or Deputy Commissioner of any district if satisfied that any wild elephant has become dangerous to human life and property may subject to such rules as may for the time being be in force under this Act issue a proclamation giving a description of the elephant and offering the reward fixed by the State Government from time to time for killing of the proclaimed wild elephants to any person who shall kill the elephant described in the proclamation.

- **Section 7 - Penalty for contravening section 3**

Note: This section states that anyone who illegally kills, injures or captures an elephant or attempts to do so will be penalized with a maximum fine of Rs. 500. Anyone who breaks a condition of his license will also be penalized with a fine of maximum Rs. 500. A second or subsequent offence under this Act will lead to imprisonment of maximum six months or fine or both.

Whoever, in contravention of section 3, kills, injures or captures, or attempts to kill, injure or capture, any wild elephant, shall be punished with fine which may extend to five hundred rupees for each elephant concerned;

and whoever breaks any condition contained in a license granted under this Act shall be punished with fine which may extend to five hundred rupees.

Any person convicted of a second offence under this section shall be punished with imprisonment which may extend to six months, or with fine, or with both.

- **Section 9 - Limitation of prosecution**

Note: This section is extremely significant as it lays down the time period within which an action for prosecution against the offender must be initiated. The time limit prescribed is within six months of when the offence actually committed.

Every prosecution under this Act shall be commenced within six months from the commission of the offence in respect of which it is instituted.