

The Elephants Preservation Act, 1879

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Act 6 of 1879

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/501Statement of Objects and Reasons.-The slaughter of wild elephants, chiefly of males, whose tusks have reached a marketable size, but in some localities of both males and females, is being extensively practised in British Burma. To prevent this wholesale and indiscriminate destruction-which, if unchecked, must ultimately lead to the extinction of the breed,-the present Bill has been framed.The provisions of this Bill are very similar to those of Madras Act 1 of 1873, from which it differs more in form and arrangement than in substance. In common with the Madras Act, it prohibits under penalty, the destruction of wild elephants, except in certain cases, and it provides for the grant of licenses for shooting wild male elephants upon waste or forest lands the property of Government, and for the making of rules as to the grant and renewal of such licenses.It differs, however, from the Madras Act in omitting the provision of that Act permitting the destruction of wild male elephants upon private waste or forest lands, as there are no private proprietors of forest land in British Burma, and where waste lands have been granted there are no elephants.[22nd March, 1879]An Act for the preservation of wild elephants.

This Act has been declared to be in force in the Angul District by the Angul Laws Regulation, 1936 (5 of 1936).It has been amended in its application to Bengal by the Elephants' Preservation (Bengal Amendment) Act, 1932 (Ben. 5 of 1932), and in its application to the district of Sambalpur and Agency tracts of Ganjam and Koraput by the Elephants' Preservation (Amendment) Regulation, 1938 (Orissa Regn. 1 of 1938) and Assam by Assam Act 14 of 1959.The Act has been extended to the NEFA Area with modifications by Regn. 1 of 1962.

1. Short title .-This Act may be called The Elephants' Preservation Act, 1879.

Local extent .-It extends to the territories now respectively administered by the Lieutenant-Governor of the North-Western Provinces and the Chief Commissioners of Oudh, the Central Provinces, [* * *] and Coorg; and the [State Government] [Substituted by the Adaptation of Laws (No. 2) Order, 1956, for Government of Part A State C State" .] may [* * *] [The words " with the previous sanction of the G.G. in C." repealed by Act 38 of 1920, Section 2 and Sch. I.] extend it to any other local [area] [[The Act has been extended to the following paces, namely:-" Kila Sulkinah, in Cuttack, see Calcutta Gazette, 1882, Pt. I, p. 278; the District of Midnapur, see Ben. R. and O;the district of Kamrup, Darrang Naugong, Sibsagar, Lakhimpur, Cachar, the Naga Hills and the Khasi and Jaintia Hiils, see Assam Gazette 1880, p. 340;the Garo Hills (with the exception of certain portions of the estates of the zamindar of Bijni), see Assam Gazette, 1899, Pt. II, p. 431;the Eastern Duars in the District of Goalpara, see Assam Gazette, 1883, Pt. I, p. 2; the Mekoake; hand Sub-division of the Naga Hills District, see Notification No. 168-J-printed Assam Gazette, 1891, Pt. II, p. 36; the Lushai Hills see Gazette of India, 1898, Pt. II, p. 345, Notification No. 923-P, dated 4.4.1898.]] [which, immediately before the 1st of November, 1956, was not comprised in a Part B State] [Inserted by the Adaptation of Laws (No. 2) Order, 1956.] by notification in the Official Gazette.Commencement .-So far as regards the power to make declarations and rules, it shall come into force on the passing thereof. In other respects it shall come into force on the first day of April, 1879.

2. Repeal .-[Repealed by the Repealing and Amending Act, 1930 (8 of 1930), section 3 and Schedule II].

3. Killing and capture of wild elephants prohibited .-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 under this Act.

4. [Rights of Government with respect to certain elephants and tusks

.--Every wild elephant captured and the tusks of every wild elephant killed, by any person not licensed under this Act, shall be the property of Government.]

5. License to kill and capture wild elephants .-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 authorise any person to enter upon any land without the consent of the owner or occupier thereof.

6. Power of State Government to declare what are main roads and canals, and to make rules as to licenses .-The State Government may from time to time [* * *] declare what shall be deemed to be main public roads and canals within the meaning of this Act, and make rules consistent with this Act for regulating--

(a)the grant and renewal of licenses under this Act;(b)the fees (if any) in money, tusks or captured elephants to be charged on such grant and renewal;(c)the time during which such licenses shall continue in force; and(d)the conditions (if any) on which they shall be granted.All such declarations and rules shall be published in the Official Gazette and shall thereupon have the force of law.

7. Penalty for contravening section 3.-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.When any person holding a license under this Act is convicted under this section, such license shall become void and shall be delivered up to the convicting Magistrate.

8. License to be produced and shown on requisition of certain officers .--Any officer of Revenue or Police, or any forest officer, who may find any person killing, injuring or attempting to kill, injure or capture, any wild elephant, except in the cases mentioned in section 3, clauses (a) and (b), may require him to produce and show a license granted to him under this Act.

Any person who, on such request, wilfully refuses or is unable to produce and show such license as aforesaid, shall, in addition to any other punishment to which he may be liable under this Act, be punished with fine which may extend to one hundred rupees.

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

10. Recovery of fees .-The amount or value of any fee payable under any license granted under this Act may be recovered from the licensee as if it was an arrear of land revenue.