

LEGISLATIVE COUNCIL BRIEF

Animals and Plants (Protection of Endangered Species) Ordinance
(Chapter 187)

ANIMALS AND PLANTS (PROTECTION OF ENDANGERED SPECIES) (EXEMPTION) (AMENDMENT) ORDER 1999

INTRODUCTION

At the meeting of the Executive Council on 2 February 1999, the Council ADVISED and the Acting Chief Executive ORDERED that the Animals and Plants (Protection of Endangered Species) (Amendment) Order 1999 at the Annex should be made.

BACKGROUND AND ARGUMENT

General Background

2. The Convention on International Trade in Endangered Species of Wild Fauna and Flora (“CITES”) extends to the Hong Kong Special Administrative Region through the ratification made by the People's Republic of China. It requires that the import and export of the following species listed in its Appendices be subject to control -

- (a) Appendix I Species which are highly endangered and threatened with extinction.
- (b) Appendix II Species which, unless trade is controlled, could be threatened with extinction.
- (c) Appendix III Species identified by any party to CITES as requiring protection from over-exploitation through international trade.

3. The Ordinance gives effect to CITES in Hong Kong. It provides that a licence is required for the import, export, possession or control of any species listed in the Schedules to the Ordinance. The Schedules to the Ordinance cover the species in the Appendices I, II and III to CITES. The licensing requirement in the Ordinance in respect of the possession or control of endangered species is not prescribed in CITES as it only controls the international trading of endangered species.

4. At the tenth meeting of their Conference held in June 1997, the Parties to CITES reviewed and amended the listing of endangered species in the Appendices to CITES. We intend to amend Schedules 1, 2 and 3 and the Sixth Schedule to the Ordinance to reflect the amendments made to the Appendices by the Parties to CITES. In this connection, the Secretary for Economic Services has made the Animals and Plants (Protection of Endangered Species) Ordinance (Amendment of Schedules) Notice 1999 under section 19(1A) of the Ordinance to effect the change.

5. Section 18 of the Ordinance empowers the Chief Executive to exempt from licensing control any scheduled species. The Animals and Plants (Protection of Endangered Species) (Exemption) Order (“the Exemption Order”) made under that section specifies exemptions covering, amongst others, -

- (a) the import of Appendix III species and products manufactured from Appendix II and Appendix III species, subject to the production of documents showing that the species or manufactured products concerned originate from CITES-approved sources;
- (b) the possession or control of certain Appendix II species, including certain cage-birds, coral skeleton and snakes; and
- (c) the possession or control of Appendix III species.

6. The exemption mechanism arising from the Exemption Order allows the Government to focus our resources to enforce CITES in the most cost-effective way.

The Proposal

7. Taking into account that CITES does not provide for licensing requirement for the possession or control of endangered species, we propose to

amend the Exemption Order concurrently with the amendment of the Schedules (paragraph 4 above), so as to allow exemption to be given to the possession or control of certain less endangered species where licensing control is not a priority for deployment of resources.

8. Specifically, we propose that the Exemption Order be revised so as to exempt from the licensing requirement the possession or control the below-listed endangered species which are proposed to be added to the Schedules to the Ordinance as mentioned in paragraph 4 above.

- (a) *Pycnonotus zeylanicus* (Straw-headed Bulbul)
- (b) *Leiothrix argentauris* (Silver-eared Mesia)
- (c) *Leiothrix lutea* (Red-billed Leiothrix)
- (d) *Liocichla omeiensis* (Omei Shan Liocichla)
- (e) *Tangara fastuosa* (Seven-coloured Tanager)
- (f) *Amandava formosa* (Green Avadavat)
- (g) *Padda oryzivora* (Java Sparrow)
- (h) *Gracula religiosa* (Hill Myna)
- (i) ACIPENSERIFORMES species (Sturgeon) (excluding species specified in the second column of Part 1 of the Sixth Schedule)
- (j) the root of *Picrorhiza kurrooa* (Picrorhiza)
- (k) the root of *Nardostachys grandiflora* (Jatamansi)

9. The exemption proposed in paragraph 8 above is not inconsistent with Hong Kong's international obligations under CITES.

THE AMENDMENT ORDER

10. Section 2, the main provision of the proposed Amendment Order, revises the Exemption Order to extend the list of species the possession or control of which is exempted from the licensing requirement under the Ordinance.

HUMAN RIGHTS IMPLICATIONS

11. The Department of Justice confirms that the proposed Amendment Order is consistent with the human rights provisions of the Basic Law.

BINDING EFFECTS

12. The proposed Amendment Order does not affect the current

binding effects of the Ordinance and its subsidiary legislation.

FINANCIAL AND STAFFING IMPLICATIONS

13. There are no financial and staffing implications.

ECONOMIC IMPLICATIONS

14. The proposal has no significant economic implications.

PUBLIC CONSULTATION

15. The Endangered Species Advisory Committee, which comprises representatives from the scientific community and the trade, has been consulted and has no objection to the proposal.

PUBLICITY

16. The Amendment Order will be published in the Gazette on 5 February 1999. A press release will be issued on the same day and a spokesman will be available to handle enquiries.

ENQUIRY

17. Any enquiry on this brief should be directed to Miss Dora Fu, Principal Assistant Secretary for Economic Services on tel. 2810 2507 or fax. 2868 4679.

Economic Services Bureau
4 February 1999

**ANIMALS AND PLANTS (PROTECTION OF ENDANGERED SPECIES)
(EXEMPTION) (AMENDMENT) ORDER 1999**

(Made under section 18 of the Animals and Plants (Protection of Endangered Species) Ordinance (Cap. 187) after consultation with the Executive Council)

1. Commencement

This Order shall come into operation on the day appointed for the commencement of the Animals and Plants (Protection of Endangered Species) Ordinance (Amendment of Schedules) Notice 1999 (L.N. of 1999).

2. Exemption in respect of possession or control of skin, corals, etc.

Paragraph 9 of the Animals and Plants (Protection of Endangered Species) (Exemption) Order (Cap. 187 sub. leg.) is amended -

- (a) in subparagraph (za) by repealing “or”;
- (b) in subparagraph (zb) by repealing the full stop and substituting a semicolon;
- (c) by adding -
 - “(zc) *Pycnonotus zeylanicus* (Straw-headed Bulbul);
 - (zd) *Leiothrix argentauris* (Silver-eared Mesia);
 - (ze) *Leiothrix lutea* (Red-billed Leiothrix);
 - (zf) *Liocichla omeiensis* (Omei Shan Liocichla);
 - (zg) *Tangara fastuosa* (Seven-coloured Tanager);
 - (zh) *Amandava formosa* (Green Avadavat);
 - (zi) *Padda oryzivora* (Java Sparrow);

- (zj) *Gracula religiosa* (Hill Myna);
- (zk) ACIPENSERIFORMES species (Sturgeon) (excluding species specified in the second column of Part 1 of the Sixth Schedule to the Ordinance);
- (zl) the root of *Picrorhiza kurrooa* (Picrorhiza); or
- (zm) the root of *Nardostachys grandiflora* (Jatamansi).”.

Acting Chief Executive

2 February 1999

Explanatory Note

This Order amends the Animals and Plants (Protection of Endangered Species) (Exemption) Order (Cap. 187 sub. leg.) to exempt certain species from the restriction imposed by the Animals and Plants (Protection of Endangered Species) Ordinance (Cap. 187) on the possession or control of scheduled species.