

Legislative Council Brief

Wild Animals Protection Ordinance
(Amendment of Schedule 6) Notice 1999

INTRODUCTION

The Wild Animals Protection Ordinance (Amendment of Schedule 6) Notice 1999 (the Notice), which was made by the Secretary for Planning, Environment and Lands (SPEL) under Section 22(1) of the Wild Animals Protection Ordinance (the Ordinance) (Cap.170), was gazetted on 30 July 1999, as at **Annex A**. The Notice amended Schedule 6 of the Ordinance by inserting the sandy beach at Sham Wan, Lamma Island into the list of areas where entry is restricted during a specified period of time every year.

BACKGROUND AND ARGUMENT

2. Sham Wan, at the southern sea inlet of Lamma Island, is the only Green Turtle nesting site known in Hong Kong, and is among one of the few remaining nesting sites for Green Turtles in Southern China. In 1998, 12 nestings were recorded at the site. The Green Turtle (*Chelonia mydas*) is one of the three species of sea turtles found in Hong Kong waters and the only species known to breed locally. It is a highly endangered species listed under Appendix I of the Convention on International Trade in Endangered Species of Wild Fauna and Flora. The site therefore is very important to the survival of this highly endangered species in both the local and regional context.

3. Like other sea turtles, Green Turtles will only nest at the beach where it was born. The females come ashore two or more times each breeding season in every three years on average to lay eggs in nest cavities on the beach. They are extremely sensitive to disturbances during nesting. Human disturbance such as illumination or noise will shy them away from the nesting ground. The hatchlings of Green Turtles have a very low survival rate. Strong light will disorientate the hatchlings from going into the sea, resulting in deaths on the beach. To prevent human disturbances to the Green Turtles, their eggs and hatchlings, there is a need to restrict entry to the sandy beach at Sham Wan during the breeding season.

4. The sandy beach at Sham Wan was listed on 3 June 1999 as a Site of Special Scientific Interest to enhance government departments' awareness of the importance of the site. There is no public facility in the area. A few local villagers use the beach and surrounding areas for morning walks. Some pleasure vessels visit Sham Wan for sightseeing and swimming, and there may be occasional hikers in the nearby areas.

5. The Ordinance was enacted in 1976 for the protection of local wild animals. To enable protection of areas of special importance to wild animals, Section 13 of the Ordinance provides for restriction of entry into areas listed under Schedule 6 of the Ordinance. Entry to these areas is restricted to public officers, persons engaged on public works or residents therein, or persons with a permit granted by the Director of Agriculture & Fisheries (DAF). Under Section 18 of the Ordinance, any person who contravenes Section 13 shall be guilty of an offence and shall be liable on conviction to a fine of HK\$ 50,000. Under Section 22(1) of the Ordinance, SPEL may, by notice published in the Gazette, amend Schedule 6 of the Ordinance to insert new areas where entry is restricted. Also under section 22(2) of the Ordinance, DAF has to sign a plan which delineates the new restricted areas and to deposit the plan in the Land Registry.

6. To protect the Green Turtles, their eggs and hatchlings from human disturbance, SPEL has specified the sandy beach of about 0.5 hectare of government land at Sham Wan, the area marked in green on **Annex B**, as an area where entry is restricted during the breeding season of the Green Turtle, i.e. every year from 1 June to 31 October, both days inclusive.

7. The Notice came into effect on 30 July 1999.

BASIC LAW IMPLICATIONS

8. The Department of Justice advises that the Notice is consistent with the Basic Law.

HUMAN RIGHTS IMPLICATIONS

9. The Department of Justice advises that the Notice is consistent with the human rights provisions of the Basic Law.

BINDING EFFECT

10. The Notice does not affect the current binding effect of the existing provisions of the Ordinance.

FINANCIAL AND STAFFING IMPLICATIONS

11. There are no additional financial and staffing implications. Additional patrolling work arising from the listing of the sandy beach at Sham Wan as a Restricted Area will be absorbed by existing resources of the Agriculture and Fisheries Department(AFD).

ECONOMIC IMPLICATIONS

12. The listing of the sandy beach at Sham Wan as a Restricted Area will have no economic implications.

ENVIRONMENTAL IMPLICATIONS

13. The listing of the sandy beach at Sham Wan as a Restricted Area protects the Green Turtles, their eggs and hatchlings from human disturbance during breeding season. This is important to the survival and conservation of the Green Turtle, which is a protected and endangered species.

PUBLIC CONSULTATION

14. The Islands Provisional District Board was consulted on the proposal on 21 June 1999. Most of the members did not object to the proposal but a few of them, including the Chairman of Lamma Island (South) Rural Committee, objected on the grounds that the proposal would hamper further development of the area and affect the daily lives of the villagers living nearby. We have explained to them that the purpose of specifying the sandy beach at Sham Wan as a Restricted Area is to ensure that human activities inside the area are put under proper control during the breeding season of the Green Turtle. Visitors and villagers who wish to enter the area during the restricted period (i.e. 1 June to 31 October every year) for activities which will not cause disturbance to the sea turtles, their nests or eggs could apply for a permit from DAF. The application procedures would be simple and the whole process would normally take about three to five working days only. Moreover, the Administration will review the restriction from time to time. The Marine Parks Committee of the Country and Marine Parks Board was consulted on the proposal on 24 June 1999 and supported the proposal.

PUBLICITY

15. AFD staff have been patrolling Sham Wan since 1 June 1999 and have started informing the villagers and visitors a week or so before 30 July that the sandy beach at Sham Wan would become a restricted area effective this year from 30 July up to 31 October and that they would need to apply for a permit from AFD beforehand if they wish to enter the area during that period. Notices were displayed at Sham Wan to show the boundary of the restricted area and the restriction period. To assist any persons who have the need to enter the restricted area on or after 30 July this year but have not applied for a permit beforehand, particularly for the first few weeks after the commencement of the Notice, AFD staff who are patrolling Sham Wan would, as an interim measure, issue permits to them on the spot as far as possible.

16. The Notice was published in the Gazette on 30 July 1999 and a press release issued on the same day. A copy of the plan showing the boundary of the Restricted Area has been deposited in the Land Registry for public inspection. Copies of the plan are also available for public inspection at all District Offices in the New Territories. A spokesperson will be available to handle enquiries.

ENQUIRIES

17. Enquiries may be directed to:
- Mr. J.K. Chan
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Planning, Environment and Lands Bureau
July 1999

**WILD ANIMALS PROTECTION ORDINANCE (AMENDMENT OF SCHEDULE 6)
NOTICE 1999**

(Made under section 22 (1) of the Wild Animals Protection Ordinance (Cap. 170))

1. Areas in which entry or presence is restricted

Schedule 6 to the Wild Animals Protection Ordinance (Cap. 170) is amended -

- (a) by repealing ""Wild Birds and Wild Mammals Protection Ordinance (Seventh Schedule)"" and substituting ""WILD BIRDS & WILD MAMMALS PROTECTION ORDINANCE, SEVENTH SCHEDULE"";
- (b) by repealing ""Wild Animals Protection Ordinance (Cap. 170), Sixth Schedule - Area B"" and substituting ""WILD ANIMALS PROTECTION ORDINANCE (CHAPTER 170), SIXTH SCHEDULE - AREA B"";
- (c) by adding -

| "Area C | Restricted Period |
|--|---|
| The sandy beach at Sham Wan, Lamma Island. | From 1 June to 31 October, both days inclusive. |

Area C is delineated and marked in green on a plan entitled "WILD ANIMALS PROTECTION ORDINANCE (CHAPTER 170), SCHEDULE 6 - AREA C"

which was signed by the Director of Agriculture and Fisheries on 7 July 1999 and deposited in the Land Registry, Victoria. The plan may be inspected at the Land Registry, Victoria and copies are available for inspection at all District Offices in the New Territories."

Secretary for Planning,
Environment and Lands

26 July 1999

Explanatory Note

This Notice amends Schedule 6 to the Wild Animals Protection Ordinance (Cap. 170) to specify the sandy beach at Sham Wan of Lamma Island as a new restricted area and to rectify two errors appearing in references to titles of plans.