

## Summary of Proposed Amendments to Ocean Park Bylaw

OPC By Law Section No.	Details of Amendment	Reason for Amendment/(No Amendment)
2	<ul style="list-style-type: none"> <li>“learner’s driving licence” (學習駕駛執照) has the same meaning as in regulation 2 of the Road Traffic (Driving Licences) Regulations (Cap.374 sub. leg. B);</li> </ul>	amendment made to cope with the new style for citing subsidiary legislation.
5(3)(f)	<ul style="list-style-type: none"> <li>“without authority granted by the Corporation, bring any food or drink <u>(except baby food)</u> into Ocean Park”;</li> </ul>	amendment made pursuant to the recommendation set out in paragraph 19 of the Report of the Subcommittee on Ocean Park Bylaw dated 25 February 2003.
5(3)(j)	<ul style="list-style-type: none"> <li>“use a radio, cassette recorder, compact disc player, <u>portable television receiver</u> or similar equipment in Ocean Park, except when used with an earphone or headset sufficiently insulated to avoid leakage of sound;”</li> </ul>	amendment made pursuant to the recommendation set out in paragraph 21 of the Report of the Subcommittee on Ocean Park Bylaw dated 25 February 2003.
5(3)(k)	<ul style="list-style-type: none"> <li>“without authority granted by the Corporation, use a television receiver <u>(except a portable television receiver used with an earphone or headset sufficiently insulated to avoid leakage of sound)</u> in Ocean Park;”</li> </ul>	amendment made pursuant to the recommendation set out in paragraph 21 of the Report of the Subcommittee on Ocean Park Bylaw dated 25 February 2003.
5(3)(m)	<ul style="list-style-type: none"> <li>“without authority granted by the Corporation, <del>stray from a path provided for pedestrian use in Ocean Park</del> <u>enter a part of Ocean Park which is designated by the Corporation by notice as a restricted area.</u>”</li> </ul>	amendment made pursuant to the recommendation set out in paragraph 23 of the Report of the Subcommittee on Ocean Park Bylaw dated 25 February 2003.
5(3)(n)	<ul style="list-style-type: none"> <li>“<u>without reasonable excuse</u>, put his feet on or lie down on a seat or bench in Ocean Park; or”</li> </ul>	amendment made pursuant to the recommendation set out in paragraph 17 of the Report of the Subcommittee on Ocean Park Bylaw dated 25 February 2003.
5(5)(d)	<ul style="list-style-type: none"> <li>“without authority granted by the Corporation, fly a kite, model aircraft, balloon <u>with a metallic coating</u> or other similar device in Ocean Park;”</li> </ul>	minor amendment initiated by the Corporation pursuant to the Subcommittee Members’ concern set out in paragraph 39 of the Report of the Subcommittee on Ocean Park Bylaw dated 25 February 2003.
5(7)(d)	<ul style="list-style-type: none"> <li>(i) add new s5(7)(d) - “<u>act in a manner likely to endanger persons or property in Ocean Park.</u>”</li> <li>(ii) <u>renumber the original 5(7) (d), (e), (f) &amp; (g) to 5(7) (e), (f), (g) &amp; (h).</u></li> </ul>	<p>(i) minor amendment initiated by the Corporation to maintain good management of Ocean Park.</p> <p>(ii) renumbering resulting from the inclusion of a new s 5(7)(d)</p>

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5(7)(h) to (m)	<ul style="list-style-type: none"> <li>• (i) add new s5(7)(i) - <u>“without authority granted by the Corporation, injure or kill an animal in Ocean Park;”</u>.</li> <li>• (ii) renumber the original <u>5(7)(h), (i), (j), (k), (l) and (m) as 5 (7) (j), (k), (l), (m), (n) &amp; (o);</u></li> <li>• (iii)redraft new s5(7) (j) - “ill-treat an animal in Ocean Park;”</li> <li>• (iv)redraft new s5(7) (m) - “without the prior written approval of the Corporation, deliver a public speech, public lecture or public sermon or conduct a <del>public prayer</del> <u>prayer assembly</u> in Ocean Park;”</li> </ul>	<ul style="list-style-type: none"> <li>• (i) minor amendment initiated by the Corporation to reflect its policy intent more accurately;</li> <li>• (ii) renumbering resulting from the inclusion of a new s5(7)(i).</li> <li>• (iii)same as (i);</li> <li>• (iv)amendment made pursuant to the recommendation set out in paragraph 25 of the Report of the Subcommittee on Ocean Park Bylaw dated 25 February 2003.</li> </ul>
9(1)	<ul style="list-style-type: none"> <li>• “A person shall not, without authority in writing granted by the Corporation, take any photograph or make any video or cinematograph recording in Ocean Park with a view to selling, publishing or publicly exhibiting the photograph, video or cinematograph recording (as the case may be) <u>in the course of business for advantage or gain.</u>”</li> </ul>	<ul style="list-style-type: none"> <li>• amendment made pursuant to the recommendation set out in paragraph 27 of the Report of the Subcommittee on Ocean Park Bylaw dated 25 February 2003.</li> </ul>
9(2)	<p>“If a person, <u>without authority in writing granted by the Corporation,</u> takes a photograph or makes a video or cinematograph recording in Ocean Park <del>and an attendant reasonably believes that the photograph, video or cinematograph recording (as the case may be) may have been taken or made</del> with a view to its sale, publication or public exhibition <u>in the course of business for advantage or gain,</u> the person shall on request by the <u>Corporation or an attendant</u> :<del>surrender</del> –</p> <ul style="list-style-type: none"> <li>• (a) <u>destroy the photograph, video or cinematograph (as the case may be) and any copies thereof; and</u></li> <li>• (b) <u>destroy</u> the relevant film, video cassette, computer diskette or other similar storage medium <u>and any copies thereof or erase any data from which the photograph, video or cinematograph may be reproduced.”</u></li> </ul>	<ul style="list-style-type: none"> <li>• amendment made pursuant to the recommendation set out in paragraph 27 of the Report of the Subcommittee on Ocean Park Bylaw dated 25 February 2003.</li> </ul>
10(3)	<ul style="list-style-type: none"> <li>• delete the penalty provision in s10(3).</li> </ul>	<ul style="list-style-type: none"> <li>• minor amendment initiated by the Corporation pursuant to the Subcommittee Members’ concern set out in paragraph 39 of the Report of the Subcommittee on Ocean Park Bylaw dated 25</li> </ul>

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		February 2003.
11(3)(b)	<ul style="list-style-type: none"> <li>“in any other case, be retained by the Corporation for a period of 3 months after the property has come into the Corporation’s possession and, if at the end of that period the property remains unclaimed, shall be deemed to become the property of the Corporation free of all <del>other</del> rights and encumbrances and the Corporation may dispose of the property by sale or otherwise.”</li> </ul>	<p>amendment made pursuant to paragraph 40(a) of the Report of the Subcommittee on Ocean Park Bylaw dated 25 February 2003.</p>
13(2)	<ul style="list-style-type: none"> <li>delete the penalty provision in s13(2) and renumber the original s13(3) to s13(2).</li> </ul>	<p>amendments made pursuant to the recommendation set out in paragraph 29 of the Report of the Subcommittee on Ocean Park Bylaw dated 25 February 2003.</p>
14(1)	<ul style="list-style-type: none"> <li>“If an attendant reasonably suspects that a person in Ocean Park has contravened any provision of this Bylaw, the attendant may, <u>on advising the person of the act or omission which constitutes the suspected contravention</u>, request that person to produce proof of his identity and his true address.”</li> </ul>	<p>amendment made pursuant to paragraph 40(c) of the Report of the Subcommittee on Ocean Park Bylaw dated 25 February 2003.</p>
14(5)	<ul style="list-style-type: none"> <li>“If an attendant reasonably suspects that a person has committed an offence <u>punishable by imprisonment</u> under this Bylaw, the attendant may .....</li> </ul>	<p>amendment made pursuant to the recommendation set out in paragraph 31 of the Report of the Subcommittee on Ocean Park Bylaw dated 25 February 2003. However, with respect to the Subcommittee’s recommendation in paragraph 32 of the Report, while it is agreed that the Bylaw and its enforcement should not be harsher than other laws or regulations, warning on first contravention will be dealt with administratively by the Corporation, and it will not be necessary to incorporate such matters into the Bylaw. Nevertheless, the Corporation’s intent is not to introduce “fine only” for first conviction. The punishment, we consider, should depend on the gravity of the offence, which could either be a fine or imprisonment. This will be a matter for the Court.</p>
14(6)	<ul style="list-style-type: none"> <li>delete s14(6) in its entirety.</li> </ul>	<ul style="list-style-type: none"> <li>amendment made pursuant to the recommendation set out in paragraph 32 of the Report of the Subcommittee on Ocean Park Bylaw dated 25 February 2003.</li> </ul>
16(5)(c)	<ul style="list-style-type: none"> <li>“deface or damage any motor vehicle <u>or property</u> in a car park;”</li> </ul>	<p>minor amendment initiated by the Corporation to reflect its policy intent more accurately.</p>

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16(5)(h)	<ul style="list-style-type: none"> <li>“Without authority granted by the Corporation, <del>play in a car park</del> <u>interfere with the normal operation of a car park;</u>”</li> </ul>	<p>minor amendment initiated by the Corporation pursuant to the Subcommittee Members’ concern set out in paragraph 39 of the Report of the Subcommittee on Ocean Park Bylaw dated 25 February 2003.</p>
19(2)	<ul style="list-style-type: none"> <li>amend s19(2) - “<del>A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 1.</del><u>If a person is unable to produce a parking ticket under subsection (1), he may not remove a motor vehicle from a car park unless and until -</u>  <ul style="list-style-type: none"> <li><u>(a) he produces proof of his authority to remove the motor vehicle to the satisfaction of an attendant; and</u></li> <li><u>(b) he has paid the parking charge for a full day.”.</u></li> </ul> </li> <li>add new s19(3) - “<u>A person who contravenes subsection (2) commits an offence and is liable on conviction to a fine at level 1 and to imprisonment for 1 month.</u>”</li> </ul>	<p>minor amendment initiated by the Corporation pursuant to the Subcommittee Members’ concern set out in paragraph 39 of the Report of the Subcommittee on Ocean Park Bylaw dated 25 February 2003.</p>
22 (5)	<ul style="list-style-type: none"> <li>no change is needed.</li> </ul>	<p>No amendment to Section 22(5). In an emergency situation, there is a defence of necessity. A person will have a defence to a charge of crime if (1) the commission of the crime is necessary, or reasonably believed to have been necessary (R. v. Cairns [1992] 2 C.A.R. 137), for the purpose of avoiding or preventing death or serious injury to himself or another, (2) that necessity is the <u>sine qua non</u> of the commission of the crime and (3) the commission of the crime, viewed objectively, is reasonable and proportionate having regard to the evil to be avoided or prevented. It will not avail the defendant that he believes what he did to have been necessary to avoid the evil if, viewed objectively, it is unnecessary, or though necessary, is disproportionate.</p>
Schedule	<ul style="list-style-type: none"> <li>“(每一普通吊船不多於 6 名乘客；每一供傷殘人士使用的吊船則不多於 4 名乘客)”</li> </ul>	<p>amendment made pursuant to paragraph 40(b) of the Report of the Subcommittee on Ocean Park Bylaw dated 25 February 2003.</p>