

立法會
Legislative Council

LC Paper No. LS83/20-21

**Paper for the House Committee Meeting
on 25 June 2021**

**Legal Service Division Report on
Ocean Park Corporation (Amendment) Bill 2021**

I. SUMMARY

- 1. The Bill**

The Bill seeks to:

 - (a) amend the Ocean Park Corporation Ordinance (Cap. 388) to empower the Ocean Park Corporation ("OPC") to carry out functions relating to recreation, education and conservation in or outside Hong Kong;
 - (b) repeal the Ocean Park Bylaw (Cap. 388B); and
 - (c) provide for related matters.
- 2. Public consultation**

According to the Administration, views of various stakeholders such as members of the Southern District Council, Tourism Strategy Group and related sectors have been taken into account in formulating the future strategy for Ocean Park ("Strategy") which is to be underpinned by the legislative amendment proposals in the Bill.
- 3. Consultation with LegCo Panel**

The Administration briefed the Panel on Economic Development on 25 January and 22 February 2021 on the Strategy as well as the proposed financial arrangements and legislative amendments to take forward the Strategy. Issues on the financial viability and sustainability of the Strategy were discussed.
- 4. Conclusion**

No difficulties relating to the legal and drafting aspects of the Bill have been identified. Since the Bill seeks to expand OPC's functions and change its mode of operation, Members may consider forming a Bills Committee to study the Bill in detail.

II. REPORT

The date of First Reading of the Bill is 23 June 2021. Members may refer to the Legislative Council ("LegCo") Brief (File Ref.: TC CR T2 22/40/3/3) issued by the Tourism Commission and the Commerce, Industry and Tourism Branch of the Commerce and Economic Development Bureau on 16 June 2021 for further details.

Object of the Bill

2. The Bill seeks to:

- (a) amend the Ocean Park Corporation Ordinance (Cap. 388) to empower the Ocean Park Corporation ("OPC") to carry out functions relating to recreation, education and conservation in or outside Hong Kong;
- (b) repeal the Ocean Park Bylaw (Cap. 388B); and
- (c) provide for related matters.

Background

3. Under Cap. 388, OPC is to manage and control the Ocean Park as a public recreational and educational park, and provide at the Ocean Park recreational and educational facilities and other related facilities (section 17). The Ocean Park Trust Fund ("Trust Fund") is established such that OPC could apply the Trust Fund for, among others, the promotion of its statutory functions as the Chief Executive ("CE") in Council may approve (section 31). OPC is empowered to do things necessary for the better performance of its functions including entering into any contract (section 18) and making by-laws to govern the operation of facilities and conduct of visitors in the Ocean Park and to enforce by-laws (section 39).

4. According to paragraphs 2 and 3 of the LegCo Brief, the Administration and OPC have drawn up a future strategy for the Ocean Park ("Strategy") with a view to repositioning the Ocean Park and improving its commercial viability. The Strategy comprises several major new initiatives and new mode of operation for the Ocean Park¹ which focus on conservation and education in and outside Hong Kong.

¹ Members may refer to Annex B to the LegCo Brief for details of the Strategy.

Provisions of the Bill

5. The Bill seeks to empower OPC to implement the Strategy. The major provisions of the Bill are summarized below.

Proposed expansion of OPC's functions

6. Clause 5 of the Bill seeks to expand the functions of OPC by amending section 17 of Cap. 388 to the effect that:

- (a) functions of OPC would include developing, managing and controlling the Ocean Park as a public recreational, educational as well as conservational park;
- (b) OPC could provide advisory services, whether in or outside Hong Kong, relating to recreation, education or conservation or the development or management of relevant facilities; and
- (c) OPC could perform its functions in and outside Hong Kong in relation to (i) provision and management of recreational, educational and conservational facilities; and (ii) organization of programmes or provision of goods and services.

7. Amendments are also proposed to the long title of, and the definition of "Ocean Park" in Cap. 388 to include the element of conservation (clauses 3 and 4).

OPC's power to enter into contract

8. Currently, section 18 of Cap. 388 does not expressly provide that OPC may enter into contract with another person in relation to the performance of its statutory functions. Clause 6 of the Bill seeks to amend section 18 of Cap. 388 by empowering OPC to enter into a contract or an arrangement with another person in relation to the performance of its certain statutory functions. According to paragraph 11 of the LegCo Brief, this proposed amendment is to allow OPC to engage outside operators to take charge of the operation of certain parts of the Ocean Park and certain activities of OPC in relation to the performance of OPC's functions.

Application of the Trust Fund

9. Clause 8 of the Bill seeks to amend section 31 of Cap. 388 to change the approving authority for the application of the Trust Fund by OPC for

the promotion of certain functions from CE in Council to the Secretary for Commerce and Economic Development ("SCED"). According to paragraph 13 of the LegCo Brief, this proposed amendment is intended to streamline the approval process of the application of the Trust Fund by OPC.

Proposed repeal of the Ocean Park Bylaw (Cap. 388B)

10. Cap. 388B provides for the management of facilities in the Ocean Park (e.g. general admission policy, opening and closing time, and restrictions on amusement rides) and control of conduct of visitors in the Ocean Park by OPC as the sole operator. Contravention of a provision of Cap. 388B is an offence and prosecution for such offence may be brought in the name of OPC under section 39 of Cap. 388.

11. Clause 9 of the Bill seeks to repeal Cap. 388B. The effect of this is that the matters currently provided by Cap. 388B would no longer be regulated through legislative means.

12. According to paragraphs 16 and 17 of the LegCo Brief, the proposed repeal of Cap. 388B is intended to cater for the situation that outside developers or operators would be appointed by OPC to regulate patron conduct in various zones of the Ocean Park in future under the new mode of operation as envisaged in the Strategy. With the repeal of Cap. 388B, the Administration envisages that the use of the Ocean Park and the conduct of visitors in future may be regulated through non-legislative means including the contractual agreement established by ticket purchase.

Commencement

13. The Bill, if passed, would come into operation on the day on which the enacted Ordinance is published in the Gazette, except clause 9 of the Bill (relating to the proposed repeal of Cap. 388B) which would come into operation on a day to be appointed by SCED by notice published in the Gazette.

14. According to paragraph 18 of the LegCo Brief, the proposed repeal of Cap. 388B would not take effect until after the future operators have devised and put in place their means of regulating the use of the Ocean Park.

Public consultation

15. According to our enquiry with the Administration, views of various stakeholders such as members of the Southern District Council ("SDC"),

Tourism Strategy Group, entertainment and event management businesses, education sector, animal and conservation advocacy organizations and other related sectors have been taken into account in formulating the Strategy which is to be underpinned by the proposed legislative amendments. SDC members did not raise any objection to the legislative proposal.

Consultation with LegCo Panel

16. As advised by the Clerk to the Panel on Economic Development, the Administration briefed the Panel on 25 January and 22 February 2021 on the Strategy as well as the proposed financial arrangements and legislative amendments to take forward the Strategy. Members in general agreed that the Ocean Park was in need of transformation to cope with the market changes and considered it suitable for the Ocean Park to focus on conservation and education. Some members were concerned about the financial viability and sustainability of the arrangement in which part of the Ocean Park's area or facilities would be outsourced to private developer(s) for development and operation. They urged the Administration to ensure that the future operation of the Ocean Park could achieve self-sustainability without requiring further funding from the Administration.

Conclusion

17. No difficulties relating to the legal and drafting aspects of the Bill have been identified. Since the Bill seeks to expand OPC's functions and change its mode of operation, Members may consider forming a Bills Committee to study the Bill in detail.

Prepared by

Mark LAM
Assistant Legal Adviser
Legislative Council Secretariat
24 June 2021