

立法會
Legislative Council

LC Paper No. LS90/20-21

**Paper for the House Committee Meeting
on 9 July 2021**

**Legal Service Division Report on
Organized and Serious Crimes (Amendment) Bill 2021
(Member's Bill)**

I. SUMMARY

- 1. The Bill**

The Bill is a Member's Bill introduced with the written consent of the Chief Executive. The Member in charge is Hon Elizabeth QUAT, BBS, JP.

The Bill seeks to amend the Organized and Serious Crimes Ordinance (Cap. 455) to add certain offences under the Protection of Endangered Species of Animals and Plants Ordinance (Cap. 586) to Schedule 1 to Cap. 455.
- 2. Public Consultation**

There is no information on whether public consultation has been conducted.
- 3. Consultation with LegCo Panel**

The Panel on Environmental Affairs was consulted on the Bill at its meeting on 22 March 2021. Members in general supported the introduction of the Bill into the Legislative Council.
- 4. Conclusion**

No difficulties have been identified in the legal and drafting aspects of the Bill. Subject to Members' views, the Bill is ready for resumption of Second Reading debate.

II. REPORT

The date of First Reading of the Bill is 7 July 2021. Members may refer to the Legislative Council ("LegCo") Brief (no file reference) issued by Hon Elizabeth QUAT's Office in June 2021 for further details.

Object of the Bill

2. The Bill seeks to amend the Organized and Serious Crimes Ordinance (Cap. 455) to add certain offences under the Protection of Endangered Species of Animals and Plants Ordinance (Cap. 586) to Schedule 1 to Cap. 455.

Background

3. This is a Member's Bill introduced with the written consent of the Chief Executive. The Member in charge is Hon Elizabeth QUAT, BBS, JP.

4. At present, offences under Cap. 586 relating to illegal trade in endangered species are not included in Schedule 1 to Cap. 455. According to paragraphs 2 and 4 of the LegCo Brief, law enforcement agencies tasked with combating wildlife trafficking and illegal trade do not have certain important investigative powers that are applicable to other organized crimes. The courts also lack certain powers, such as the power to order the confiscation of the proceeds of crime, or the power to make a restraint order or a charging order, when dealing with convicted cases of offences involving wildlife trafficking and illegal trade. The Bill proposes to strengthen the authorities' investigation and enforcement powers, with a view to combating illegal trade in endangered species more effectively.

Provisions of the Bill

5. Under the Bill, it is proposed that various provisions under Cap. 586 (i.e. sections 5 to 9, and 11 to 15 of Cap. 586) relating to the offences of illegal importing, exporting, re-exporting, possession or control of certain species of animals and plants ("Cap. 586 offences") be added to Schedule 1 to Cap. 455.

6. Under Cap. 455, an offence specified in Schedule 1 to Cap. 455 and the related inchoate offences ("Schedule 1 offences") falls within the

definition of "organized crime" in section 2(1) of Cap. 455 if the Schedule 1 offence is:

- (a) connected with the activities of a particular triad society,
- (b) related to the activities of two or more persons associated together solely or partly for the purpose of committing two or more acts, each of which is a Schedule 1 offence, and involves substantial planning and organization, or
- (c) committed by two or more persons, involving substantial planning and organization, and also involving the loss of life of any person, serious bodily or psychological harm to any person, or a substantial risk of such loss of life or harm, or serious loss of liberty of any person.

7. Where a Schedule 1 offence meets the definition of "organized crime", the powers of investigation provided under Part II of Cap. 455, as well as various enforcement powers provided under Parts III and IV of Cap. 455 would be applicable for the purpose of empowering law enforcement agencies in the discharge of their functions relating to such crime.

8. The effect of the Bill, if passed, is that upon adding the Cap. 586 offences to Schedule 1 to Cap. 455, where the Cap. 586 offences are committed under circumstances that fall within the definition of "organized crime" under section 2(1) of Cap. 455, the investigation powers for combating organized crimes, such as the power to gain access to material relating to the crime, the power to confiscate proceeds of crime, as well as other related enforcement powers (including enhanced sentencing) for tackling organized crimes would be applicable to the Cap. 586 offences.

Commencement

9. The Bill, if passed, would come into operation on the day on which it is published in the Gazette as an Ordinance.

Public Consultation

10. There is no information on whether public consultation has been conducted.

Consultation with LegCo Panel

11. As advised by the Clerk to the Panel on Environmental Affairs, on 22 March 2021, Hon Elizabeth QUAT briefed the Panel on the Bill. Members discussed the existing difficulties in taking enforcement actions or initiating prosecutions against illegal trade in endangered species, and supported the introduction of the Bill into LegCo with a view to strengthening the Administration's investigation and enforcement powers for combating wildlife crimes.

Conclusion

12. No difficulties have been identified in the legal and drafting aspects of the Bill. Subject to Members' views, the Bill is ready for resumption of Second Reading debate.

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