

立法會

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Bills Committee on Wild Animals Protection (Amendment) Bill 2023

Background brief

Purpose

This paper provides background information on the Wild Animals Protection (Amendment) Bill 2023 (“the Bill”) and summarizes the major views and concerns expressed by Members when related issues were discussed by the relevant committees of the Legislative Council (“LegCo”) in recent years.

Background

Prohibition of feeding of wild animals

2. “Wild animal” is defined in section 2 of the Wild Animals Protection Ordinance (Cap. 170) to mean any animal, other than those classed at common law as domestic (including those so classed which have gone astray or have been abandoned). The Prohibition of Feeding of Wild Animals Notice 1999 (Cap. 170B) specifies certain areas listed in its Schedule as Feeding Ban Areas. After the Prohibition of Feeding of Wild Animals Notice 1999 (Amendment) Notice 2022 came into effect on 31 December 2022, the Feeding Ban Areas have been expanded to cover the entire territory of Hong Kong.¹ Section 17C(3) of the Ordinance provides that no person shall, except in accordance with a special permit issued by the Director, feed any wild animal at a Feeding Ban Area. A person contravening the prohibition of feeding wild animals under section 17C(3) is liable to a fine at level 3 (i.e. \$10,000) upon conviction.

¹ A subcommittee was formed to study the Prohibition of Feeding of Wild Animals Notice 1999 (Amendment) Notice 2022. Please refer to the [report](#) of this subcommittee for the details.

Feeding of feral pigeons

3. According to the Administration, feral pigeons are likely to be classified at common law as domestic animals, and thus fall outside the definition of wild animals under Cap. 170, and be excluded from the feeding ban. Currently, enforcement can be taken against littering associated with feeding of feral pigeons in public places through prosecution by summons or issuance of fixed penalty notices under the Public Cleansing and Prevention of Nuisances Regulation (Cap. 132BK) and the Fixed Penalty (Public Cleanliness and Obstruction) Ordinance (Cap. 570).

Wild Animals Protection (Amendment) Bill 2023

4. The Bill was published in the Gazette on 17 November 2023 and received its First Reading at the Council meeting of 29 November 2023. The Bill seeks to, inter alia:

- (a) expand the scope of the feeding ban to cover feral pigeons, in addition to the current feeding ban on wild animals;
- (b) increase the maximum penalty and introduce a fixed penalty for illegal feeding of wild animals and feral pigeons; and
- (c) broaden the scope of enforcement officers and empower them to demand personal details and inspect the proof of identity of persons suspected of committing offences under Cap. 170.

At its meeting on 1 December 2023, the House Committee agreed to form a bills committee to study the Bill.

Members' views and concerns

5. The Administration consulted the Panel on Environmental Affairs ("EA Panel") on 11 July 2022 regarding its new measures for the management of wild pigs, including the proposals to expand the Feeding Ban Areas, increase the penalty for illegal feeding of wild animals and introduce fixed penalty for the offence. On 22 May 2023, EA Panel was further consulted on the detailed proposals of regulating the feeding of feral pigeon, as well as the proposed levels of the maximum penalty and fixed penalty. Issues relating to illegal feeding of wild animals and feeding of feral pigeons were also raised by Members at other meetings of EA Panel in connection with discussion of wild pig management and

during examination of the Estimates of Expenditure in recent years. The major views and concerns expressed by Members are summarized in the ensuing paragraphs.

Enforcement against illegal feeding of wild animals

6. Members in general expressed support for increasing the penalty for illegal feeding of wild animals and urged the Administration to introduce the relevant legislative amendments expeditiously. Members expressed concerns about how the Administration would ensure effective enforcement of the feral pigeon feeding ban, and raised the following questions/suggestions:

- (a) how law enforcement officers would determine whether an act constituted the proposed feral pigeon feeding offence under Cap. 170 or littering offence, and whether it would be possible that a person be issued fixed penalty notices for both offences due to the same act;
- (b) how the Administration would regulate feral pigeon feeding in residential premises, including whether law enforcement officers would be authorized to enter the premises for enforcement purposes, and whether the Administration would enlist cooperation of property management bodies in taking enforcement actions; and
- (c) the Administration should strengthen enforcement effectiveness through, among other things, interdepartmental coordination and enhanced patrol at black spots. Innovative technologies, such as drones, could be used to monitor illegal feeding activities and gather evidence.

7. The Administration advised that:

- (a) in determining whether a person had committed an offence in relation to feral pigeon feeding or littering, law enforcement officers would take into account actual circumstances such as the time and location of the act, whether feral pigeons were present at the location, whether the food given was usually consumed by feral pigeons, how the food was given (in animal feeding containers or scattered around), ecological impact of the act, whether the public place had been dirtied by the act, etc. The Administration would provide guidelines and training to law enforcement officers. If necessary, the Department of Justice would be consulted on relevant issues, including whether an act would be deemed to be illegal feral pigeon feeding and littering at the same time;

- (b) the Feeding Ban Areas had been expanded to cover the entire territory of Hong Kong. The feral pigeon feeding ban could be effected by specifying that the Feeding Ban Areas also applied to feral pigeons (even though feral pigeons did not fall within the definition of “wild animals” under Cap. 170). In other words, feeding of feral pigeons in residential premises would also be prohibited after the legislative amendment. If there were suspected acts of illegal feeding in residential premises, the Administration would conduct investigations accordingly. Section 17B of Cap. 170 provided for the powers to enter premises by authorized officers with a warrant. Members of the public were encouraged to provide information to the Administration to facilitate enforcement;
- (c) the Agriculture, Fisheries and Conservation Department (“AFCD”) had been discussing with relevant government departments, such as the Food and Environmental Hygiene Department, the Housing Department and the Leisure and Cultural Services Department on the proposal of empowering them to take corresponding law enforcement actions against illegal feeding at locations under their purview throughout Hong Kong through redeployment of internal resources. A risk-based law enforcement strategy based on intelligence and reports received would be adopted;
- (d) it was envisaged that the introduction of fixed penalty could streamline the prosecution procedure, thereby making enforcement work more efficient. The Administration would consider formulating key performance indicators for monitoring the effectiveness of related enforcement work; and
- (e) consideration would also be given to installing surveillance camera systems at feral pigeon feeding black spots. The Administration would keep in view the development and applications of innovative technologies in the market, and consider adopting suitable technologies to enhance enforcement efficiency and effectiveness.

8. Members suggested that the by-laws of local organizations such as the MTR Corporation Limited and the West Kowloon Cultural District be updated by incorporating provisions relating to the feral pigeon feeding ban, so that the venue operators could take enforcement actions against feral pigeon feeding directly. The Administration advised that it would maintain close communications with the relevant organizations and study the need to update the by-laws for controlling feral pigeon feeding.

Definition of wild animals

9. Members suggested that a list of wild animals be provided in relevant legislation to enhance the clarity of the feeding ban.

10. The Administration advised that “wild animal” was defined under Cap. 170 as “any animal, other than those classed at common law as domestic (including those so classed which had gone astray or had been abandoned)”. According to this definition, wild pigs, wild monkeys and most wild birds were generally regarded as wild animals, while feral/stray cats, dogs and cattle were not. The Administration would consider the feasibility of setting out a list of wild animals in Cap. 170.

Publicity and education

11. Members called on the Administration to step up publicity and education to increase public awareness of the problems associated with feeding of wild animals and feral pigeons. The Administration responded that it would continue to strengthen such work through various channels, including expanding promotional and educational activities to schools and communities near feeding black spots. AFCD had conducted a study on the behaviour of feeding wild animals by members of the public. Targeted publicity programmes had been implemented based on the study findings.

Council questions

12. Members raised questions about illegal feeding of wild animals at various Council meetings in the Sixth and Seventh LegCo. The questions and the Administration’s replies are hyperlinked in the **Appendix**.

Relevant papers

13. A list of relevant papers is set out in the **Appendix**.

Bills Committee on Wild Animals Protection (Amendment) Bill 2023

List of relevant papers

Committee	Date of meeting	Paper
Panel on Environmental Affairs	11 July 2022	Agenda Item III: New measures for management of wild pigs Minutes
	22 May 2023	Agenda Item IV: Proposed amendments to Wild Animals Protection Ordinance Minutes
Subcommittee on Prohibition of Feeding of Wild Animals Notice 1999 (Amendment) Notice 2022	8 December 2022*	Report of the Subcommittee to the House Committee
Finance Committee	13 April 2021	Administration's written replies to Members' initial questions on the Estimates of Expenditure 2021-2022 (Reply serial numbers: ENB 003, 015 and 023)
	11 April 2022	Administration's written replies to Members' initial questions on the Estimates of Expenditure 2022-2023 (Reply serial numbers: ENB 001 and 002)
	13 April 2023	Administration's written replies to Members' initial questions on the Estimates of Expenditure 2023-2024 (Reply serial numbers: EEB(E) 001, 005, 007, 009, 013, 019, 020 and 027)

*Issue date of paper

Date	Legislative Council Brief
15 November 2023	Legislative Council Brief issued by the Environment and Ecology Bureau and the Agriculture, Fisheries and Conservation Department on the Wild Animals Protection (Amendment) Bill 2023

Date	Paper
9 January 2019	Council question 10 : Nuisance caused by wild pigs
27 March 2019	Council question 19 : Preventing wild animals from causing injuries and nuisances to residents
6 January 2021	Council question 12 : Nuisances caused by wild pigs
19 January 2022	Council question 7 : Impact of releasing and feeding wild animals on environment
19 January 2022	Council question 10 : Reducing nuisances caused by wild pigs