

**立法會**  
***Legislative Council***

LC Paper No. LS74/2023

**Paper for the House Committee Meeting  
on 1 December 2023**

**Legal Service Division Report on  
Wild Animals Protection (Amendment) Bill 2023**

**I. SUMMARY**

- 1. The Bill**

The Bill seeks to amend the Wild Animals Protection Ordinance (Cap. 170) to:

  - (a) re-enact the offence relating to the prohibition on feeding wild animals as an offence that applies in the entire Hong Kong Special Administrative Region under Cap. 170 with enhanced penalty;
  - (b) prohibit the feeding of feral pigeons;
  - (c) provide for certain exceptions to the prohibition on feeding those animals;
  - (d) provide for a fixed penalty for contravention of the prohibition on feeding those animals;
  - (e) provide for the appointment of specified officers for the purpose of enforcing the fixed penalty;
  - (f) amend the categories of authorized officers and provide for additional enforcement powers; and
  - (g) provide for related and miscellaneous matters.
- 2. Public Consultation**

The Nature Conservation Subcommittee of the Advisory Council on the Environment was consulted in September 2022 and June 2023. Its members generally supported the legislative proposals.
- 3. Consultation with LegCo Panel**

The Panel on Environmental Affairs was consulted on 11 July 2022 and 22 May 2023. Members expressed support for the legislative proposals.
- 4. Conclusion**

No difficulties have been identified in relation to the legal and drafting aspects of the Bill. Since the Bill seeks to expand the scope of the feeding ban and introduce a fixed penalty for illegal feeding of wild animals and feral pigeons, Members may consider whether a Bills Committee should be formed to study the policy aspect of the Bill in detail.

## II. REPORT

The date of First Reading of the Bill is 29 November 2023. Members may refer to the Legislative Council (“LegCo”) Brief (File Ref.: EEB(EB)CR 9/150/48) issued by the Environment and Ecology Bureau and the Agriculture, Fisheries and Conservation Department on 15 November 2023 for further details.

### Object of the Bill

2. The Bill seeks to amend the Wild Animals Protection Ordinance (Cap. 170) to:

- (a) re-enact the offence relating to the prohibition on feeding wild animals as an offence that applies in the entire Hong Kong Special Administrative Region (“HKSAR”) under Cap. 170 with enhanced penalty;
- (b) prohibit the feeding of feral pigeons;
- (c) provide for certain exceptions to the prohibition on feeding those animals;
- (d) provide for a fixed penalty for contravention of the prohibition on feeding those animals;
- (e) provide for the appointment of specified officers for the purpose of enforcing the fixed penalty;
- (f) amend the categories of persons who may act as authorized officers and provide for additional enforcement powers for authorized officers; and
- (g) provide for related and miscellaneous matters.

### Provisions of the Bill

3. The key provisions of the Bill are summarized in the ensuing paragraphs.

#### Expansion of the scope of feeding ban to cover feral pigeons

4. Currently, section 17C(3) of Cap. 170 provides that no person shall, except in accordance with a special permit granted by the Director, the Deputy Director or an Assistant Director of Agriculture, Fisheries and Conservation (“Director”), feed any wild animal at a place specified by the Director (“feeding ban”). Under section 1 of the Prohibition of Feeding of Wild Animals Notice (Cap. 170B), the entire HKSAR is specified as a place at which the feeding of any wild animal is prohibited.

5. “Wild animal”, as defined under section 2 of Cap. 170, does not include animals classed at common law as domestic (including those so classed which have gone

astray or have been abandoned). According to paragraph 2 of the LegCo Brief, feral pigeons, which are likely to be classed at common law as domestic, are not wild animals under Cap. 170 and thus not within the scope of the feeding ban. Clause 4 of the Bill seeks to expand the scope of the feeding ban by adding a new section 9A to Cap. 170 to prohibit the feeding of wild animals and animals specified in the newly added Schedule 2A to Cap. 170 (i.e. feral pigeon, domestic pigeon or rock pigeon) (“specified animal”) (clause 15). It also seeks to provide that the prohibition would not apply to the feeding of a wild animal or a specified animal ordinarily kept in captivity or in the case where a special permit has been granted by the Director for feeding such an animal. Clause 11 seeks to amend section 22 of Cap. 170 to empower the Director to amend the proposed new Schedule 2A to Cap. 170 by notice published in the Gazette. Such notice would be subsidiary legislation subject to LegCo’s scrutiny pursuant to the negative vetting procedure under section 34 of the Interpretation and General Clauses Ordinance (Cap. 1).

6. As the proposed new section 9A of Cap. 170 has the effect of imposing the prohibition on feeding wild animals and specified animals in the entire HKSAR, clauses 7 and 18 of the Bill seek to consequentially repeal section 17C of Cap. 170 and Cap. 170B respectively.

#### Expansion of the scope of authorized officers and their enforcement powers

7. Under the existing section 2 of Cap. 170, the categories of persons who may act as authorized officers include a nature warden or honorary nature warden appointed under section 16 of Cap. 170. Clause 6 of the Bill seeks to substitute the existing section 16 of Cap. 170, which provides that the Chief Executive may appoint any person to be a nature warden or honorary nature warden for the purposes of Cap. 170, with a new section 16 to empower the Director to appoint in writing any public officer, or class of public officers, serving under the Director as an authorized officer for the purposes of Cap. 170. Clause 3 of the Bill proposes to make corresponding amendments to the definition of “authorized officer” under section 2 of Cap. 170.

8. Clause 8 of the Bill proposes to add a new section 17D to Cap. 170 to empower an authorized officer to demand personal details and inspect proof of identity of a person if the officer has reason to believe that the person is committing or has committed an offence under section 18 of Cap. 170 (other than an offence for failing to surrender a permit or special permit cancelled by the Director).

#### Offences and increase in maximum penalty

9. Currently, a person contravening the feeding ban under section 17C(3) of Cap. 170 commits an offence and is liable on conviction to a fine at level 3 (i.e. \$10,000) under section 18 of Cap. 170. Clause 9 of the Bill seeks to amend section 18 of Cap. 170 to provide for the following offences:

- (a) an offence for feeding wild animals and specified animals in contravention of the proposed new section 9A of Cap. 170 (proposed new section 18(2));

- (b) an offence for failing to comply with the requirement to supply personal details and produce proof of identity without reasonable excuse (proposed new section 18(3));
- (c) an offence for knowingly or recklessly supplying any information that is false or misleading in a material particular when being asked to supply personal details (proposed new section 18(6)); and
- (d) an offence for wilfully resisting or obstructing a specified officer (appointed under section 2 of the proposed new Schedule 9 to Cap. 170) exercising the power of arrest pursuant to section 4 of the proposed new Schedule 9 to Cap. 170 (proposed new section 18(7)).

10. In relation to the penalty for an offence for illegal feeding as stated in paragraph 9(a) above, the Bill proposes to increase the maximum penalty from the existing level of fine at level 3 (i.e. \$10,000) to a fine at level 6 (i.e. \$100,000) and imprisonment for one year. A person who commits an offence as stated in paragraph 9(b) or (c) above would be liable on conviction to a fine at level 2 (i.e. \$5,000) and imprisonment for six months, and a person who commits an offence as stated in paragraph 9(d) above would be liable on conviction to a fine at level 5 (i.e. \$50,000).

#### Introduction of a fixed penalty regime

11. Clause 10 of the Bill proposes to add new sections 18A and 18B to Cap. 170 to provide for a fixed penalty regime in respect of the offence relating to feeding of wild animals and specified animals. It is proposed that if a person commits an offence under the proposed new section 18(2) of Cap. 170 and is given a penalty notice, the person may discharge liability for the offence by paying a fixed penalty of \$5,000 within 21 days. Under the proposed new section 18B of Cap. 170, LegCo would have the power to amend the amount of the fixed penalty by resolution (i.e. pursuant to the positive vetting procedure).

12. Clause 17 of the Bill proposes to add a new Schedule 9 to Cap. 170 to set out the detailed provisions relating to the fixed penalty regime. Section 2 of the proposed new Schedule 9 seeks to empower the Director to appoint public officers, or class of public officers, serving under the Director of Food and Environmental Hygiene, the Director of Leisure and Cultural Services or the Director of Housing as specified officers to enforce the proposed fixed penalty regime. Sections 3 and 4 of the proposed new Schedule 9 seek to empower specified officers to demand personal details and inspect proof of identity for the purpose of giving a person a penalty notice for an offence under the proposed new section 18(2) of Cap. 170, and to arrest a person for an offence under the proposed new section 18(3) of Cap. 170 respectively. Clause 11(1) seeks to amend section 22(1) of Cap. 170 to provide that the power of the Secretary for Environment and Ecology to amend the Schedules to Cap. 170 would not include a power to amend the proposed new Schedule 9 to Cap. 170. The effect would be that the proposed new Schedule 9 to Cap. 170 could only be amended by an amendment Ordinance in the future.

### Related amendments

13. The Bill also proposes to make related amendments to various enactments including the Criminal Procedure Ordinance (Cap. 221) and Schedules 1 and 2 to the Court Proceedings (Electronic Technology) (Magistrates' Court) Rules (Cap. 638B) in connection with the fixed penalty and penalty notice.

### Commencement

14. The Bill, if passed, would come into operation on 1 August 2024.

### **Public Consultation**

15. According to paragraph 18 of the LegCo Brief, the Administration consulted the Nature Conservation Subcommittee of the Advisory Council on the Environment ("ACE-NCSC") on, amongst others, the proposed increase in the maximum penalty and introduction of fixed penalty against the feeding ban in September 2022. The Administration consulted ACE-NCSC again on the detailed proposals of regulating the feeding of feral pigeon, and the proposed levels of maximum penalty and fixed penalty in June 2023. Members of ACE-NCSC generally supported the proposals.

### **Consultation with LegCo Panel**

16. As advised by the Clerk to the Panel on Environmental Affairs ("Panel"), the Administration briefed the Panel on, among others, the proposed increase of penalty for illegal feeding of wild animals and introduction of fixed penalty for the offence on 11 July 2022. On 22 May 2023, the Panel was further consulted on these proposals and the proposal of prohibiting the feeding of feral pigeons. Members expressed support for the proposals and discussed various issues with the Administration, including (a) enforcement of the prohibition on feeding wild animals and feral pigeons; (b) prosecution by summons after the introduction of fixed penalty; and (c) the suggestion of incorporating the feral pigeon feeding ban provisions into the by-laws of local institutions such as the Mass Transit Railway and the West Kowloon Cultural District. Regarding (c) above, the Administration responded that it would maintain close communications with the relevant organizations and study the need to update the relevant by-laws for controlling feral pigeon feeding.

### **Conclusion**

17. No difficulties have been identified in relation to the legal and drafting aspects of the Bill. Since the Bill seeks to expand the scope of the feeding ban and introduce a fixed penalty for illegal feeding of wild animals and feral pigeons, Members may consider whether a Bills Committee should be formed to study the policy aspect of the Bill in detail.

Prepared by  
CHUI Ho-yin, Alvin  
Assistant Legal Adviser  
Legislative Council Secretariat  
30 November 2023