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ACE Paper 13/2023

For information on 10 July 2023

Report on the 37th Nature Conservation Subcommittee Meeting

INTRODUCTION

At the meeting on 8 June 2023, the Nature Conservation Subcommittee (NCSC) discussed two agenda items on “Proposed Amendments to the Wild Animals Protection Ordinance (WAPO) (Cap. 170) (“the Ordinance”)” and “Turtle Poaching”. For details of the proposed amendments to the Ordinance, please refer to ACE-NC Paper 1/2023 at *Annex*.

KEY DISCUSSIONS

Proposed Amendments to the Wild Animals Protection Ordinance (Cap. 170)

2. Members were supportive to the proposed amendments and gave some suggestions to facilitate the effective enforcement of the Ordinance. It was suggested that (i) clear guidelines should be devised in relation to imposing fixed penalty and heavier penalty for repeated offenders and (ii) the Government may liaise with religious organisations to seek their assistance in appealing to their supporters to adopt alternative charitable acts in lieu of animal release / feeding activities (including feral pigeons). To strengthen law enforcement, it was also suggested that CCTVs as well as signage indicating surveillance monitoring may be installed at relevant black spots to deter people from illegal feeding activities.

Turtle Poaching

3. Under the agenda of Any Other Business, the issue of turtle poaching was discussed. A letter from the ADM Capital Foundation expressing its views on wildlife poaching was circulated to Members before the meeting. The views of two former ACE members on the subject were also tabled for discussion. It was suggested that the Agriculture, Fisheries and Conservation Department (AFCD) should (i) solicit active participation of the Police in investigation and enforcement; (ii) establish a special patrol team to target wildlife poaching; (iii) utilise technology such as installing CCTVs / camera traps at entrances and car parks of poaching black spots to alert the responsible officers direct; and (iv) increase the penalty for the Ordinance. Members also suggested that publicity and public education efforts

should be strengthened to solicit supports of the public to report suspicious activities to the authorities and to discourage local demand of purchasing wildlife animals.

4. Being mindful of the difficulty in catching the culprits, Members were glad to note that AFCD (i) had deployed staff to patrol the countryside areas regularly to inspect if any illegal animal poaching activities were taking place; (ii) had conducted and would continue to conduct joint enforcement operations with other Government departments and animal organisations upon receipt of intelligence; (iii) had installed infrared cameras to detect suspicious poaching activities; and (iv) would collaborate with local experts to update / develop Species Action Plans with a view to devising effective strategies for mitigating the threats on and protecting the local population of freshwater turtles.

5. Members noted that AFCD had issued a reply to ADM Capital Foundation and had been taking follow-up actions on the issue of wildlife poaching. The above key discussions are reported to ACE for information.

NCSC Secretariat
July 2023



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ACE-NC Paper 1/2023
For discussion on 8 June 2023

**Proposed Amendments to the
 Wild Animals Protection Ordinance (Cap. 170)**

PURPOSE

This paper seeks Members' views on the proposed amendments to the Wild Animals Protection Ordinance (Cap. 170) ("the Ordinance") with a view to, amongst others, regulating feeding activities of feral pigeons, increasing the maximum penalty for illegal feeding of wild animals, and introducing fixed penalty.

BACKGROUND

2. Under section 17C of the Ordinance, the Director of Agriculture, Fisheries and Conservation ("the Director") may, for the purpose of conservation of wild animals¹, by notice published in the Gazette specify any place at which feeding of any wild animals shall be prohibited ("Feeding Ban Area"). Previously, the Feeding Ban Area was established in places² where local monkeys frequently appeared, thereby reducing monkey nuisance to the public as a result of human feeding. In view of the rising trend³ in recent years of nuisance and injuries caused by wild pigs due to change in their behaviours caused by human feeding, the Government amended the Ordinance last year to, with effect from 31 December 2022, expand the Feeding Ban Area specified by the Ordinance to cover the entire territory of Hong Kong, so as to strengthen the deterrence of feeding activities of wild animals (including monkeys, wild pigs and tree sparrows) and ensure public safety.

¹ According to section 2 of the Ordinance, "wild animal" means any animal, other than those classified at common law as domestic (including those so classed which have gone astray or have been abandoned), but not includes fish and marine invertebrates.

² Including Kam Shan, Lion Rock and Shing Mun Country Parks, parts of Tai Mo Shan Country Park, Tai Po Kau Nature Reserve, Caldecott Road area near Tai Po Road and Piper's Hill section of Tai Po Road, etc.

³ Over the past decade (2013 to 2022), the wild pig occurrence and nuisance cases soared from about 300 annually to over 1,100. During the same period, 81 injury cases caused by wild pigs were recorded, and 93% of them (i.e. 75 cases) happened between 2018 and 2022.

3. As feral pigeons are classified as domestic animals and are thus not wild animals defined under the Ordinance, feeding of feral pigeons is not prohibited under the Ordinance at present. On the other hand, the current maximum penalty for illegal feeding of wild animals in the Feeding Ban Area is a fine of \$10,000 upon conviction. During the legislative amendment exercise last year, we sought views from Members and other stakeholders, and noted their concern regarding the widespread nuisance to the public and environmental hygiene problems caused by feeding of feral pigeons⁴, as well as the current penalty for illegal feeding of wild animals being on the light side. The Government committed at that time to further examine bringing feeding activities of feral pigeons under the regulation of the Ordinance, and increasing the penalty for illegal feeding of wild animals.

4. After taking into account views of Members and other stakeholders, we now propose amending the Ordinance to regulate feeding activities of feral pigeons, increase the maximum penalty for illegal feeding of wild animals, and introduce fixed penalty, etc. Details are as follows.

PROPOSED AMENDMENTS

Regulate Feeding of Feral Pigeons

5. Feral pigeons are not “wild animals” defined under the Ordinance. Feeding feral pigeons will inevitably attract other wild animals, in particular wild birds like spotted doves and tree sparrows, to eat the food given by the feeders, resulting in altering the foraging and migration behaviour of the latter, and jeopardising their ability to survive on their own in the wild. Human feeding of feral pigeons can also lead to the continuous growth of their population, which in turn can threaten the survival of other wild birds and cause ecological imbalance through interspecific competition (i.e. competition among different species). This can also increase potential risks of disease and parasite transmission. People who feed feral pigeons often spread food (such as rice and bread) in public places like streets and resting places. The food itself and the faeces from feral pigeons and wild birds so attracted to will not only foul public places, but also disgust and cause inconvenience to residents nearby and passers-by, and constitute a public health issue.

6. With a view to enhancing protection of wild animals and safeguarding environmental hygiene in public places, we propose amending the Ordinance such that no person shall feed feral pigeons⁵, in addition to wild animals.

⁴ The Agriculture, Fisheries and Conservation Department received 808 and 682 complaints and enquiries of feral pigeon nuisance in 2021 and 2022 respectively.

⁵ We propose adding a new schedule under the Ordinance to specify the Feeding Ban Area under section 17C of the Ordinance also applies to the animals listed in the schedule, and adding feral pigeons to the schedule. As feral pigeons are not wild animals, other provisions of the Ordinance that apply to wild animals, such as protection of nests and eggs, prohibition of hunting, etc., will continue not to be applicable to feral pigeons.

Increase Penalty

7. Illegal feeding of wild animals and feral pigeons not only causes nuisance to the public and threatens public health, but also brings adverse impact to wild animals and natural ecology. We propose increasing the maximum penalty under the Ordinance from a fine of \$10,000 to a fine of \$100,000 and one year's imprisonment, which will be on par with other offences⁶ with the highest penalty level under the Ordinance. The proposal will allow heavier penalty to be imposed against persons involved in illegal animal feeding of serious nature and degree⁷, thereby enhancing the deterrent effect.

Introduce Fixed Penalty System

8. We propose introducing a fixed penalty system for illegal feeding of wild animals and feral pigeons, with reference to the approach adopted by other legislations such as the Fixed Penalty (Public Cleanliness and Obstruction) Ordinance (Cap. 570). This will allow enforcement officers to immediately issue fixed penalty notices to the persons who are contravening or have contravened the feeding ban. We propose setting the fixed penalty amount at \$5,000 to reflect the potential impact of illegal feeding activities on natural ecology and environmental hygiene⁸. By simplifying the enforcement procedures and setting the fine at a level with deterrent effect, the proposed fixed penalty system will help strengthen the efforts to deter illegal feeding activities.

Other Amendments

9. Last year, the Feeding Ban Area was expanded for the purpose of prohibiting feeding of wild animals in the wild, rather than restricting the public from feeding wild animals kept in captivity lawfully. We propose making corresponding amendments to the Ordinance to state that members of the public who keep wild animals in captivity lawfully are exempted from the feeding ban.

10. In addition, we propose amending the Ordinance to stipulate that the Director can authorise any public officer in writing to exercise the relevant powers conferred by the Ordinance. This will allow the Government to flexibly deploy staff from various departments to participate in law enforcement actions, such as issuing fixed penalty notices, against illegal feeding of wild animals and feral pigeons in different parts of Hong Kong. We also propose empowering authorised officers to require a person to provide relevant personal information⁹ if there is reasonable ground to

⁶ Including hunting or wilfully disturb of protected wild animals, illegal possession of protected wild animals, etc.

⁷ For example, repeated offenders or those who feed a large number of wild pigs or feral pigeons in residential areas.

⁸ The proposed fixed penalty amount will be higher than that for littering offence (currently at \$1,500 and is proposed to be increased to \$3,000).

⁹ Such as name, address and contact telephone number, and proof of identity for inspection. If the person refuses to provide the relevant information, or provides false or misleading personal information, it is proposed that the maximum penalty upon conviction is a fine of \$5,000 and imprisonment for 6 months, which is same as the similar provision under the Fixed Penalty (Public Cleanliness and Obstruction) Ordinance (Cap. 570).

believe that the person has committed or is committing an offence against the feeding ban, so as to facilitate law enforcement. The authorised officers are also required to produce proof of appointment when enforcing the Ordinance.

GUIDELINES AND TRAINING FOR FRONTLINE ENFORCEMENT OFFICERS

11. The Agriculture, Fisheries and Conservation Department (“AFCD”) and the relevant departments will take corresponding law enforcement actions against illegal feeding in different locations throughout Hong Kong through redeployment of internal resources, and adopting a risk-based law enforcement strategy based on intelligence and reports received. AFCD will work with the relevant departments to formulate enforcement guidelines, which will be updated and refined from time to time to ensure consistency in law enforcement standard. In addition, the Government will provide training to frontline officers of relevant departments to facilitate effective law enforcement.

PUBLICITY AND EDUCATION

12. AFCD will strengthen promotional and educational work through various channels to increase public awareness of the new feeding restriction, including the proposed fixed penalty arrangement. In addition to promotion via social media platforms and publicity posters on public transport vehicles and stations, AFCD will also expand promotional and educational activities to elderly centres, schools and communities near the feeding blackspots to strengthen their law-abiding awareness.

WAY FORWARD

13. We plan to introduce the relevant amendment bill into the Legislative Council in the fourth quarter of this year. If passed by the Legislative Council, the relevant amendments are expected to take effect fully in the third quarter of 2024.

ADVICE SOUGHT

14. Members are invited to take note of the above proposed legislative amendments and provide comments.

**Environment and Ecology Bureau
Agriculture, Fisheries and Conservation Department
May 2023**