
Wild Animals Protection (Amendment) Ordinance 2024

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HONG KONG SPECIAL ADMINISTRATIVE REGION

ORDINANCE NO. 11 OF 2024



John KC LEE
Chief Executive
30 May 2024

An Ordinance to amend the Wild Animals Protection Ordinance to 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 the Ordinance with enhanced penalty; to prohibit the feeding of feral pigeons; to provide for certain exceptions to the prohibition on feeding those animals; to provide for a fixed penalty for contravention of the prohibition on feeding those animals; to provide for the appointment of specified officers for the purpose of enforcing the fixed penalty; to amend the categories of persons who may act as authorized officers; to provide for additional enforcement powers for authorized officers; and to provide for related and miscellaneous matters.

[1 August 2024]

Enacted by the Legislative Council.

Part 1

Preliminary

1. Short title and commencement

- (1) This Ordinance may be cited as the Wild Animals Protection (Amendment) Ordinance 2024.
- (2) This Ordinance comes into operation on 1 August 2024.

2. Enactments amended

The enactments specified in Parts 2 and 3 are amended as set out in those Parts.

Part 2

Amendments to Wild Animals Protection Ordinance and its Subsidiary Legislation

Division 1—Wild Animals Protection Ordinance (Cap. 170)

3. Section 2 amended (interpretation)

(1) Section 2—

Repeal the definition of *authorized officer*

Substitute

“*authorized officer* (獲授權人員) means—

(a) a police officer; or

(b) a public officer, or a public officer belonging to a class of public officers, appointed by the Director under section 16(1);”.

(2) Section 2—

Add in alphabetical order

“*fixed penalty* (定額罰款) means the fixed penalty under section 18A(1);

specified officer (指明人員) means a public officer, or a public officer belonging to a class of public officers, appointed by the Director under section 2(1) of Schedule 9;”.

4. Section 9A added

After section 9—

Add

“9A. Feeding of wild animals and animals specified in Schedule 2A prohibited

- (1) Subject to subsection (2), a person must not feed—
 - (a) a wild animal; or
 - (b) an animal specified in Schedule 2A.
- (2) Subsection (1) does not apply if—
 - (a) the animal mentioned in subsection (1)(a) or (b) is ordinarily kept in captivity; or
 - (b) a special permit has been granted for feeding such an animal.”.

5. Section 15 amended (special permits)

- (1) Section 15(1)—

Repeal

“he”

Substitute

“the Director”.

- (2) Section 15(1)—

Repeal

“17C(3)”

Substitute

“9A(2)(b)”.

6. Section 16 substituted

Section 16—

Repeal the section

Substitute

“16. Authorized officers

- (1) The Director may appoint in writing any public officer, or class of public officers, serving under the Director to be an authorized officer for the purposes of this Ordinance.
- (2) An authorized officer appointed under subsection (1), when exercising a power under this Ordinance, must produce the written appointment for inspection by any person who reasonably requires to see it.”.

7. Section 17C repealed (prohibition of feeding of wild animals at specified places)

Section 17C—

Repeal the section.

8. Section 17D added

Before section 18—

Add

“17D. Power to demand personal details and inspect proof of identity

- (1) This section applies if an authorized officer has reason to believe that a person is committing or has committed a relevant offence.
- (2) The authorized officer may, for the purpose of issuing or serving a summons, a notice (including a penalty notice as defined by section 1(1) of Schedule 9) or other document in relation to the relevant offence, require the person to—
 - (a) supply the person’s name, address and contact telephone number (if any); and

(b) produce for inspection the person's proof of identity.

(3) In this section—

proof of identity (身分證明文件) has the meaning given by section 17B(1) of the Immigration Ordinance (Cap. 115);

relevant offence (有關罪行) means an offence under section 18, other than an offence under section 18(1)(a) for contravening section 15A(3).”.

9. Section 18 amended (offences and penalty)

(1) Section 18—

Renumber the section as section 18(1).

(2) Section 18(1)(a)—

Repeal

“, 15A(3) or 17C(3)”

Substitute

“or 15A(3)”.

(3) Section 18(1), English text—

Repeal

“shall be guilty of”

Substitute

“commits”.

(4) Section 18(1)(i), English text—

Repeal

“shall be liable”

Substitute

“is liable”.

- (5) Section 18(1)(ii), English text—

Repeal

“shall be liable”

Substitute

“is liable”.

- (6) Section 18(1)(iii)—

Repeal

“of a contravention of section 17C(3) or”.

- (7) Section 18(1)(iii), English text—

Repeal

“shall be liable”

Substitute

“is liable”.

- (8) Section 18(1)(iv), English text—

Repeal

“shall be liable”

Substitute

“is liable”.

- (9) After section 18(1)—

Add

- “(2) A person who contravenes section 9A commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 1 year.
- (3) In any proceedings for an offence under subsection (2), the burden of establishing that section 9A(1) does not apply because of section 9A(2) lies on the person charged with the offence.

- (4) For the purposes of subsection (3), a person is taken to have established that section 9A(1) does not apply because of section 9A(2) if—
 - (a) there is sufficient evidence to raise an issue that the animal mentioned in section 9A(1)(a) or (b) is ordinarily kept in captivity or that a special permit has been granted for feeding such an animal; and
 - (b) the contrary is not proved by the prosecution beyond reasonable doubt.
- (5) A person who fails to comply with a requirement made under section 17D(2) or under section 3(2) of Schedule 9 commits an offence and is liable on conviction to a fine at level 2 and to imprisonment for 6 months.
- (6) It is a defence for a person charged with an offence under subsection (5) to establish that the person had a reasonable excuse for failing to comply with the requirement.
- (7) For the purposes of subsection (6), a person is taken to have established that the person had a reasonable excuse if—
 - (a) there is sufficient evidence to raise an issue that the person had a reasonable excuse; and
 - (b) the contrary is not proved by the prosecution beyond reasonable doubt.
- (8) A person who, in purported compliance with a requirement made under section 17D(2) or under section 3(2) of Schedule 9, knowingly or recklessly supplies any information that is false or misleading in a material particular commits an offence and is

liable on conviction to a fine at level 2 and to imprisonment for 6 months.

- (9) A person who wilfully resists or obstructs a specified officer exercising any power under or pursuant to section 4 of Schedule 9 commits an offence and is liable on conviction to a fine at level 5.”.

10. Sections 18A and 18B added

After section 18—

Add

“18A. Fixed penalty in discharge of liability under section 18(2)

- (1) If a person commits an offence under section 18(2) and is given a penalty notice as defined by section 1(1) of Schedule 9, the person may, in accordance with that Schedule, discharge liability for the offence by paying a fixed penalty of \$5,000.
- (2) Schedule 9 provides for matters relating to the fixed penalty.

18B. Legislative Council may amend fixed penalty and costs

- (1) The Legislative Council may by resolution amend the amount of the fixed penalty.
- (2) The Legislative Council may by resolution amend the amount of the costs specified in section 10(2)(c), 14(3)(b)(iii) or 15(4)(c) of Schedule 9.”.

11. Section 22 amended (power to amend Schedules)

- (1) Section 22(1), after “Schedule”—

Add

“, except Schedule 9”.

(2) After section 22(2)—

Add

“(3) The Director may by notice published in the Gazette amend Schedule 2A.”.

12. Section 22A added

After section 22—

Add

“22A. Power of Secretary for Environment and Ecology to specify forms

- (1) The Secretary for Environment and Ecology may specify the form of any notice or certificate for the purposes of Schedule 9.
- (2) The Secretary for Environment and Ecology must, as soon as practicable after a form is specified under subsection (1), publish the specified form in the Gazette.
- (3) A form specified under this section is not subsidiary legislation.”.

13. Section 24 amended (notices)

Section 24, after “For the purposes of this Ordinance”—

Add

“(except Schedule 9)”.

14. Schedule 2 amended (protected wild animals)

(1) Schedule 2, English text, Column 3, heading—

Repeal

“Common Name”

Substitute

“English Common Name”.

(2) Schedule 2, Column 4, heading—

Repeal

“Chinese Name”

Substitute

“Chinese Common Name”.

15. Schedule 2A added

After Schedule 2—

Add

“Schedule 2A

[ss. 9A & 22]

Animals for which Feeding is Prohibited

Note: An animal specified in this Schedule is the one specified in Column 3. The names given in Column 2, Column 4 and Column 5 are for information only.

Wild Animals Protection (Amendment) Ordinance 2024

Part 2—Division 1
Section 16

Ord. No. 11 of 2024
A1009

Column 1	Column 2	Column 3	Column 4	Column 5
Item	ORDER/Family	Scientific name	English common name	Chinese common name
		AVES	BIRDS	雀鳥類
1.	COLUMBIFORMES/ Columbidae	Columba livia	Feral pigeon, domestic pigeon or rock pigeon	野鴿, 白鴿, 家鴿 or 原鴿”.
16.	Schedule 6 amended (areas in which entry or presence is restricted)			
	Schedule 6—			
	Repeal			
	“[ss. 13 & 22]”			
	Substitute			
	“[ss. 2, 13 & 22]”.			
17.	Schedule 9 added			
	At the end of the Ordinance—			
	Add			

“Schedule 9

[ss. 2, 17D, 18, 18A,
18B, 22, 22A & 24]

Fixed Penalty

Part 1

Interpretation

1. Interpretation

(1) In this Schedule—

Authority (主管當局)—see subsection (2);

demand notice (繳款通知書) means a demand notice served under section 7(2) of this Schedule;

penalty notice (罰款通知書) means a penalty notice given under section 5(2) of this Schedule;

recovery order (追討令) means an order made under section 10(2) of this Schedule;

specified form (指明格式) means a form specified under section 22A.

(2) In this Schedule, in applying a provision in relation to an offence for which an authorized officer or specified officer (*officer concerned*) has given a penalty notice, a reference to the Authority is a reference to—

(a) if the officer concerned is a police officer—the Commissioner of Police;

- (b) if the officer concerned is a public officer serving under the Director—the Director;
- (c) if the officer concerned is a public officer serving under the Director of Food and Environmental Hygiene—the Director of Food and Environmental Hygiene;
- (d) if the officer concerned is a public officer serving under the Director of Leisure and Cultural Services—the Director of Leisure and Cultural Services; or
- (e) if the officer concerned is a public officer serving under the Director of Housing—the Director of Housing.

Part 2

Specified Officers

2. Specified officers

- (1) The Director may appoint in writing any public officer, or class of public officers, serving under a relevant authority to be a specified officer.
- (2) A specified officer appointed under subsection (1), when exercising a power under this Schedule, must produce the written appointment for inspection by any person who reasonably requires to see it.
- (3) In this section—
relevant authority (有關當局) means—
 - (a) the Director of Food and Environmental Hygiene;

- (b) the Director of Leisure and Cultural Services;
or
- (c) the Director of Housing.

3. Power for specified officers to demand personal details and inspect proof of identity

- (1) This section applies if a specified officer has reason to believe that a person is committing or has committed an offence under section 18(2).
- (2) The specified officer may, for the purpose of giving the person a penalty notice, require the person to—
 - (a) supply the person's name, address and contact telephone number (if any); and
 - (b) produce for inspection the person's proof of identity.
- (3) In this section—

proof of identity (身分證明文件) has the meaning given by section 17B(1) of the Immigration Ordinance (Cap. 115).

4. Power of arrest for specified officers

- (1) If a specified officer has reasonable grounds for believing that a person has committed an offence under section 18(5), the specified officer may arrest the person.
- (2) If a specified officer arrests a person under subsection (1), the specified officer must forthwith take the person to the nearest police station and hand the person over to the custody of a police officer, and section 52 of the Police Force Ordinance (Cap. 232) is to apply.

Part 3

Penalty Notice and Demand Notice

- 5. Authorized officer and specified officer may give penalty notice**
 - (1) This section applies if an authorized officer or specified officer has reason to believe that a person is committing or has committed an offence under section 18(2).
 - (2) The authorized officer or specified officer may give the person a penalty notice in the specified form offering the person an opportunity to discharge the person's liability for the offence by paying the fixed penalty within 21 days after the date on which the notice is given.
 - (3) A penalty notice must be given by the authorized officer or specified officer personally to the person.

- 6. No prosecution or conviction if compliance with penalty notice**
 - (1) This section applies to a person who has been given a penalty notice for an offence under section 18(2).
 - (2) Subject to section 9 of this Schedule, the person is not liable to be prosecuted or convicted for the offence if the person has paid the fixed penalty within 21 days after the date on which the penalty notice is given.

- 7. Authority may serve demand notice in case of failure to pay fixed penalty etc.**
 - (1) This section applies if—

- (a) a person—
 - (i) has been given a penalty notice for an offence under section 18(2); and
 - (ii) fails to pay the fixed penalty within 21 days after the date on which the notice is given; or
 - (b) a person refuses to accept a penalty notice intended to be given to the person for the offence.
- (2) The Authority may serve on the person a demand notice in the specified form—
- (a) demanding payment of the fixed penalty;
 - (b) informing the person that the person must notify the Authority in writing if the person wishes to dispute liability for the offence; and
 - (c) stating that the payment or notification must be made within 10 days after the date on which the demand notice is served.
- (3) A demand notice may not be served later than—
- (a) if subsection (1)(a) applies—6 months after the date on which the penalty notice is given; or
 - (b) if subsection (1)(b) applies—6 months after the date on which the person refuses to accept the penalty notice.
- (4) A demand notice may be served by sending it by post to the person's last known address.
- (5) A certificate of posting in the specified form purporting to be signed by or for the Authority is admissible in evidence in any proceedings under this Schedule.

- (6) Unless there is evidence to the contrary, it is presumed that—
 - (a) the certificate of posting was signed by or for the Authority; and
 - (b) the demand notice to which the certificate relates was duly served.

8. No prosecution or conviction if compliance with demand notice

- (1) This section applies to a person on whom a demand notice has been served for an offence under section 18(2).
- (2) Subject to section 9 of this Schedule, the person is not liable to be prosecuted or convicted for the offence if the person has paid the fixed penalty within 10 days after the date on which the demand notice is served.

9. Withdrawal of penalty notice or demand notice

- (1) The Authority may withdraw a penalty notice given, or a demand notice served, for an offence under section 18(2)—
 - (a) at any time before a recovery order is made; or
 - (b) at any time before any proceedings for the offence commence.
- (2) If a penalty notice or demand notice is withdrawn—
 - (a) the Authority must serve notice of the withdrawal on the person to whom, or on whom, the penalty notice or demand notice has been given or served; and

- (b) on application by the person, the Authority must refund, through the Director of Accounting Services, any amount paid for the fixed penalty.
- (3) If a penalty notice or demand notice is withdrawn, proceedings for the offence may only be commenced where—
 - (a) the ground, or one of the grounds, on which the notice is withdrawn is that it contains incorrect information; and
 - (b) the incorrect information was supplied by the person to whom, or on whom, the notice was given or served.

Part 4

Recovery of Fixed Penalty

10. Recovery of fixed penalty

- (1) This section applies to a person on whom a demand notice has been served who—
 - (a) fails to pay the fixed penalty in accordance with the notice; and
 - (b) fails to notify the Authority in accordance with the notice that the person wishes to dispute liability for the offence.
- (2) On application made in the name of the Secretary for Justice and production of the documents specified in subsection (3), a magistrate must order the person to pay, within 14 days after the date of service of notice of the order—

- (a) the fixed penalty;
 - (b) an additional penalty equal to the amount of the fixed penalty; and
 - (c) \$300 by way of costs.
- (3) The documents are—
- (a) a copy of the demand notice;
 - (b) a certificate of posting relating to the demand notice under section 7(5) of this Schedule; and
 - (c) a certificate under section 11 of this Schedule.
- (4) A magistrate must cause a notice of the recovery order to be served on the person against whom the order is made and the notice may be served by sending it by post to the person's last known address.
- (5) An application may be made in the absence of the person and the Secretary for Justice may appoint a person or class of persons to make an application.

11. Evidentiary certificate

- (1) A certificate in the specified form stating the matters in subsection (2) and purporting to be signed by or for the Authority is admissible in evidence in any proceedings under this Schedule.
- (2) The matters are—
- (a) that the person specified in the certificate had not, before the date of the certificate, paid the fixed penalty;
 - (b) that the person specified in the certificate had not, before the date of the certificate, notified the Authority that the person wished to dispute liability for the offence; and

- (c) that the address specified in the certificate was, on the date specified in the certificate in relation to the address, the person's last known address.
- (3) Unless there is evidence to the contrary—
 - (a) it is presumed that the certificate was signed by or for the Authority; and
 - (b) the certificate is evidence of the facts stated in it.

12. Consequences of compliance with recovery order or failure to do so

- (1) This section applies to a person against whom a recovery order is made.
- (2) If the person has complied with the recovery order, the person is not liable to be prosecuted or convicted for the offence to which the order relates.
- (3) If the person fails to comply with the recovery order, the person—
 - (a) is to be regarded, for the purposes of section 68 of the Magistrates Ordinance (Cap. 227), as having failed to pay the sum adjudged to be paid by a conviction; and
 - (b) is liable to be imprisoned under that section.

13. Application for review of recovery order

- (1) A person against whom a recovery order is made may apply to a magistrate for review of the order.
- (2) An application must be made within 14 days after the date on which the recovery order first came to the personal notice of the applicant.

- (3) The applicant must give reasonable notice of the application to the Authority.
- (4) An application may be made in person or by counsel or solicitor.
- (5) For securing the attendance of witnesses and generally for conducting the proceedings, the magistrate has all the powers of a magistrate hearing a complaint under the Magistrates Ordinance (Cap. 227).

14. Outcome of review

- (1) On application under section 13 of this Schedule, a magistrate may rescind a recovery order if satisfied that the demand notice did not come to the personal notice of the applicant without any fault of the applicant.
- (2) If the magistrate rescinds a recovery order, and the applicant wishes to dispute liability for the offence to which the order relates, the magistrate must give leave to that effect.
- (3) If the magistrate rescinds a recovery order, and the applicant does not wish to dispute liability for the offence to which the order relates, the magistrate—
 - (a) must order the applicant to pay the fixed penalty within 10 days after the date of an order made under this paragraph; and
 - (b) must order that, if the applicant fails to pay the fixed penalty within that period, the applicant must immediately pay—
 - (i) the fixed penalty;

- (ii) an additional penalty equal to the amount of the fixed penalty; and
 - (iii) \$300 by way of costs.
- (4) Despite section 26 of the Magistrates Ordinance (Cap. 227), if a magistrate gives leave under subsection (2), proceedings may be commenced within 6 months after the date on which the magistrate gives the leave.
- (5) If the applicant fails to comply with the order under subsection (3)(b), the applicant—
 - (a) is to be regarded, for the purposes of section 68 of the Magistrates Ordinance (Cap. 227), as having failed to pay the sum adjudged to be paid by a conviction; and
 - (b) is liable to be imprisoned under that section.
- (6) If the applicant has complied with the order under subsection (3)(a) or (b), the applicant is not liable to be prosecuted or convicted for the offence to which the order relates.

Part 5

Proceedings if Person Disputes Liability

15. Dispute of liability for offence

- (1) This section applies if—
 - (a) a person has notified the Authority in accordance with a demand notice that the person wishes to dispute liability for an offence under section 18(2); or

- (b) a person has been given leave under section 14(2) of this Schedule to dispute liability for an offence under section 18(2).
- (2) A summons issued in any proceedings against the person for the offence may be served on the person in accordance with section 8 of the Magistrates Ordinance (Cap. 227).
- (3) If—
 - (a) in consequence of the notification or leave, the person appears in any proceedings in answer to a summons; and
 - (b) the person is convicted of the offence after having offered no defence or a defence that is frivolous or vexatious,
the magistrate before whom the proceedings are heard must, in addition to any other penalty and costs, impose an additional penalty equal to the amount of the fixed penalty.
- (4) Any proceedings commenced against a person falling within subsection (1)(a) must terminate if the person pays in accordance with subsection (5)—
 - (a) the fixed penalty;
 - (b) an additional penalty equal to the amount of the fixed penalty; and
 - (c) \$500 by way of costs.
- (5) Payment under subsection (4) must be made at any magistrates' court not less than 2 days before the day specified in the summons for the person's appearance, and the summons must be produced at the time of the payment.

- (6) Neither a Saturday nor a public holiday may be included in the computation of the 2 days' period mentioned in subsection (5).

Part 6

General Provisions for Proceedings

16. Power to rescind order on application by Authority

At any time, a magistrate may for good cause, on application by the Authority, rescind—

- (a) an order for the payment of the fixed penalty; and
- (b) any other order made under this Schedule in the same proceedings.”.

Division 2—Prohibition of Feeding of Wild Animals Notice (Cap. 170 sub. leg. B)

18. Prohibition of Feeding of Wild Animals Notice repealed

Prohibition of Feeding of Wild Animals Notice—

Repeal the Notice.

Part 3

Related Amendments

Division 1—Waterworks Regulations (Cap. 102 sub. leg. A)

19. Regulation 40 amended (interpretation)

Regulation 40, definition of *authorized officer*—

Repeal paragraph (c).

Division 2—Criminal Procedure Ordinance (Cap. 221)

20. Section 113C amended (provision for fines for offences)

Section 113C(1)(c), after “meaning of”—

Add

“the Wild Animals Protection Ordinance (Cap. 170)”.

Division 3—Court Proceedings (Electronic Technology) (Magistrates’ Court) Rules (Cap. 638 sub. leg. B)

21. Schedule 1 amended (Ordinances under which penalty notices are issued)

Schedule 1, after item 1—

Add

“1A. Wild Animals Protection Ordinance (Cap. 170)”.

22. Schedule 2 amended (documents that may be sent to Court by means of e-system instead of producing them as paper documents)

Schedule 2, after item 1—

Wild Animals Protection (Amendment) Ordinance 2024

Part 3—Division 3
Section 22

Ord. No. 11 of 2024
A1039

Add

- “1A. A document specified in section 10(3)(a), (b) or (c) of Schedule 9 to the Wild Animals Protection Ordinance (Cap. 170) that is produced for an application under section 10(2) of that Schedule”.