

漁農自然護理署
九龍長沙灣道三零三號
長沙灣政府合署六樓



AGRICULTURE, FISHERIES AND
CONSERVATION DEPARTMENT
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7 October 2016

Dear Sir/Madam :

The Protection of Endangered Species of Animals and Plants Ordinance (Cap.586)
Penalty Review

The Government is committed to the protection of endangered species. The Protection of Endangered Species of Animals and Plants Ordinance (Cap 586) (the Ordinance) has been enacted in 2005 to give effect to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) to regulate the import, introduction from the sea, export, re-export and domestic sale of endangered species.

The Chief Executive announced in the 2016 Policy Address that:-

*“The Government is very concerned about the illegal poaching of elephants in Africa. It will kick start legislative procedures as soon as possible to ban the import and export of ivory and phase out the local ivory trade, and **imposing heavier penalties on smuggling and illegal trading of endangered species**. Meanwhile, the Government will strengthen enforcement and take rigorous action against the smuggling and illegal trade in ivory.”*

To take forward the commitments made in the Policy Address, the Government now proposes to amend the Ordinance in a single legislative exercise to phase out the local trade in ivory and at the same time to **review the penalties under the Ordinance**. Currently, a person who commits an offence of illegal import, introduction from the sea, export, re-export or possession of specimen of Appendix I species is liable on conviction to a fine at level 6 (i.e. \$100,000) and imprisonment of 1 year. Heavier penalties (a fine of \$5,000,000 and imprisonment of 2 years) will be imposed for offences committed for commercial purposes. In respect of specimen of Appendix II and Appendix III species, similar offences may be subject to a fine at level 5 (i.e. \$50,000) and imprisonment of 6 months, and heavier penalties (a fine of \$500,000 and imprisonment of 1 year) will be

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imposed for offences committed for commercial purposes. These penalties were introduced in 1995 and have not been reviewed for over 20 years.

To increase the deterrent effect, **this Department proposes to impose uniform maximum penalties for both commercial and non-commercial offences**, namely a fine of \$5,000,000 and 2 years of imprisonment as maximum penalty for offences related to Appendix I specimens under sections 5-9 of the Ordinance and a fine of \$500,000 and 1 year imprisonment as maximum penalty for offences related to Appendix II and III specimens under sections 11-15 of the Ordinance. Furthermore, having regard to other local ordinances concerning trade in controlled items, the penalties of similar offences in other jurisdictions, and international references on offences of similar nature, **we also propose to create indictable offence under the Ordinance in line with other similar offences in Hong Kong** to reflect the severity of the offences. On indictment, the maximum penalty for an offence under sections 5-9 of Cap.586 is proposed to be increased to a fine of \$10,000,000 and imprisonment of 4 years while the penalty for an offence under sections 11-15 is proposed to be increased to a fine of \$1,000,000 and imprisonment of 2 years.

Before finalizing our penalty review, we would like to ask for your comments on the above proposal. If you have any enquiries or comments regarding the above proposed penalty review, please contact us by fax, e-mail or post by 21 October 2016.

Yours Faithfully



(Timothy LAM)

for Director of Agriculture, Fisheries and Conservation