

Wild Animals and Birds (Amendment) Bill

Bill No. 15/2020.

Read the first time on 6 March 2020.

A BILL

i n t i t u l e d

An Act to amend the Wild Animals and Birds Act (Chapter 351 of the 2000 Revised Edition).

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

Short title and commencement

1. This Act is the Wild Animals and Birds (Amendment) Act 2020 and comes into operation on a date that the Minister appoints by notification in the *Gazette*.

5 Repeal and re-enactment of long title

2. The long title to the Wild Animals and Birds Act (called in this Act the principal Act) is repealed and the following long title substituted therefor:

10 “An Act for the protection, preservation and management of wildlife for the purposes of maintaining a healthy ecosystem and safeguarding public safety and health, and for related matters.”.

Amendment of section 1

15 3. Section 1 of the principal Act is amended by deleting the words “Wild Animals and Birds Act” and substituting the words “Wildlife Act”.

Amendment of section 2

4. Section 2 of the principal Act is amended —

20 (a) by inserting, immediately before the definition of “authorised officer”, the following definitions:

““animal” includes any mammal, bird, reptile, amphibian, fish or invertebrate, whether of a wild nature or otherwise;

“animal-related business” means —

25 (a) the operation of any place or establishment for the purpose of —

30 (i) using or holding animals for display, sport, entertainment, sale, breeding or conservation;
or

(ii) the care, boarding, grooming, treatment, vaccination, inoculation, training or destruction of animals, for reward;

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(b) the provision of any service relating to the care, boarding, grooming, treatment, vaccination, inoculation, training, transportation, capture or destruction of animals, for reward; or

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(c) the operation of any animal rescue or welfare organisation or facility,

but does not include any business in respect of animals intended for consumption;”;

(b) by inserting, immediately after the definition of “Board”, the following definition:

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““conveyance” includes any vehicle, vessel, train, aircraft or other mode of transport;” and

(c) by deleting the definition of “wild animals and birds” and substituting the following definitions:

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““enforcement officer” means an authorised officer, a police officer or an officer of customs;

“limited liability partnership” has the meaning given by the Limited Liability Partnerships Act (Cap. 163A);

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“officer of customs” has the meaning given by the Customs Act (Cap. 70);

“owner” includes any person for the time being in charge of any wildlife (whether alive or dead), part of a wildlife, article, conveyance or other thing, and any person for the time being in occupation of any building;

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“place” means any public or private place and includes —

(a) any land, whether built on or not;

(b) any body of water; and

(c) any area, whether or not enclosed, and whether above-ground, underground or underwater;

“police officer” means a member of the Police Force or a special police officer, as defined in the Police Force Act (Cap. 235);

“protected wildlife” means a wildlife that belongs to a protected wildlife species;

“protected wildlife species” means a wildlife species prescribed as a protected wildlife species for the purposes of this Act;

“reward” means any payment or other benefit (whether monetary or otherwise);

“seized item” means any wildlife (whether dead or alive), part of a wildlife, article, conveyance or other thing seized by an enforcement officer under this Act;

“wildlife” means an animal that belongs to a wildlife species, and includes the young or egg of the animal;

“wildlife species” means any species of animals of a wild nature, but excludes domestic dogs and cats, horses, cattle, sheep, goats, domestic pigs and poultry.”.

Repeal and re-enactment of section 3

5. Section 3 of the principal Act is repealed and the following section substituted therefor:

“Operation of other written laws

3.—(1) To avoid doubt, nothing in this Act affects or limits the operation of the following written laws:

- (a) the Animals and Birds Act (Cap. 7);
- (b) the Building Maintenance and Strata Management Act (Cap. 30C); 5
- (c) the Civil Aviation Authority of Singapore Act (Cap. 41);
- (d) the Control of Vectors and Pesticides Act (Cap. 59);
- (e) the Endangered Species (Import and Export) Act (Cap. 92A); 10
- (f) the Environmental Public Health Act (Cap. 95);
- (g) the Executive Condominium Housing Scheme Act (Cap. 99A);
- (h) the Fisheries Act (Cap. 111); 15
- (i) the Housing and Development Act (Cap. 129);
- (j) the HUDC Housing Estates Act (Cap. 131);
- (k) the Infectious Diseases Act (Cap. 137);
- (l) the Jurong Town Corporation Act (Cap. 150);
- (m) the Parks and Trees Act (Cap. 216); 20
- (n) the Public Utilities Act (Cap. 261);
- (o) the Sentosa Development Corporation Act (Cap. 291).

(2) To also avoid doubt, nothing in this Act affects a police officer’s powers or duties under the Criminal Procedure Code (Cap. 68) or any other written law.”. 25

New section 4A

6. The principal Act is amended by inserting, immediately after section 4, the following section:

“Authorised officers are public servants and public officers

4A. Without affecting sections 20 and 21 of the Public Sector (Governance) Act 2018 (Act 5 of 2018), an authorised officer —

- 5 (a) is taken to be a public servant for the purposes of the Penal Code (Cap. 224) when performing a function or exercising a power under this Act; and
- 10 (b) is, in relation to the administration, assessment, collection or enforcement of payment of a composition sum under this Act, taken to be a public officer for the purposes of the Financial Procedure Act (Cap. 109); and section 20 of that Act applies to the authorised officer even though the authorised officer is not or was not in the employment of the Government.”.
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Repeal and re-enactment of section 5 and new sections 5A, 5B and 5C

7. Section 5 of the principal Act is repealed and the following sections substituted therefor:

20 **“Director-General’s written approvals under Act**

5.—(1) The Director-General may give a written approval under this Act —

- 25 (a) generally, or to a particular person or a particular class of persons;
- (b) subject to any condition the Director-General thinks fit; and
- 30 (c) in any form or manner the Director-General thinks fit (including by publishing the written approval and the conditions of the approval on the Board’s official website).

(2) In this section, “official website”, for the Board, means the Board’s official website at <https://www.nparks.gov.sg> or any

other website prescribed as the Board's official website for the purposes of this section.

Feeding of wildlife

5A.—(1) A person must not intentionally feed any wildlife in any place unless the person has the Director-General's written approval to do so. 5

(2) A person who has the Director-General's written approval mentioned in subsection (1) must comply with the conditions of the approval.

(3) A person who contravenes subsection (1) or (2) shall be guilty of an offence and shall be liable on conviction — 10

(a) for a first offence, to a fine not exceeding \$5,000; and

(b) for a second or subsequent offence, to a fine not exceeding \$10,000.

Releasing of wildlife

5B.—(1) A person must not intentionally release any wildlife in any place unless the person has the Director-General's written approval to do so. 15

(2) A person who has the Director-General's written approval mentioned in subsection (1) must comply with the conditions of the approval. 20

(3) A person who contravenes subsection (1) or (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000.

Killing, trapping, taking or keeping of wildlife

5C.—(1) A person must not intentionally kill, trap, take or keep any wildlife in any place unless the person has the Director-General's written approval to do so. 25

(2) A person who has the Director-General's written approval mentioned in subsection (1) must comply with the conditions of the approval. 30

(3) A person who contravenes subsection (1) or (2) shall be guilty of an offence and shall be liable on conviction —

(a) in the case where the offence is committed in respect of a protected wildlife, to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 2 years or to both; and

(b) in any other case —

(i) where the person commits the offence in the course of carrying on, or employment or purported employment with, an animal-related business, to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 12 months or to both; and

(ii) in any other case —

(A) for a first offence, to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 6 months or to both; and

(B) for a second or subsequent offence, to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 12 months or to both.”.

Amendment of section 6

8. Section 6 of the principal Act is amended —

(a) by inserting, immediately after the word “kill” in subsection (1), the word “, trap”; and

(b) by deleting the words “wild animal or bird” in subsections (1) and (2) and substituting in each case the word “wildlife”.

Repeal and re-enactment of sections 7, 8, 9 and 10 and new section 10A

9. Sections 7, 8, 9 and 10 of the principal Act are repealed and the following sections substituted therefor:

“Setting of spring guns, etc.

7.—(1) A person must not, for the purpose of killing, trapping or taking any wildlife, set, place or prepare in any place any spring gun, engine, pitfall sharpened stake, snare trap or other device which is likely to endanger human life, or cause grievous hurt to any individual, unless the person has the Director-General’s written approval to do so. 5

(2) A person who has the Director-General’s written approval mentioned in subsection (1) must comply with the conditions of the approval. 10

(3) A person who contravenes subsection (1) or (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 12 months or to both.

(4) In this section, “snare trap” means any type of trap which uses a noose to ensnare a wildlife or is activated by a trigger to entrap the wildlife. 15

Sale or export of wildlife

8.—(1) A person must not offer for sale, sell or export any wildlife (whether alive or dead), or any part of a wildlife, unless the person has the Director-General’s written approval to do so. 20

(2) A person who has the Director-General’s written approval mentioned in subsection (1) must comply with the conditions of the approval.

(3) A person who contravenes subsection (1) or (2) shall be guilty of an offence and shall be liable on conviction — 25

(a) in the case where the offence is committed in respect of a protected wildlife, to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 2 years or to both; and 30

(b) in any other case, to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months or to both.

Import of wildlife

9.—(1) A person must not import into Singapore any living wildlife unless the person has the Director-General's written approval to do so.

5 (2) A person who has the Director-General's written approval mentioned in subsection (1) must comply with the conditions of the approval.

10 (3) A person who contravenes subsection (1) or (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months or to both.

Wildlife-related measures for development or works

15 10.—(1) The Director-General may direct a person to implement, in respect of any development or works being carried out, or to be carried out, by or on behalf of the person, any wildlife-related measure that the Director-General considers necessary to safeguard —

(a) the health, welfare or safety of any wildlife or class of wildlife;

20 (b) public health or safety in relation to wildlife; or

(c) the health of the ecosystem.

(2) A direction under subsection (1) in respect of any development or works —

(a) must be in writing; and

25 (b) may be given at any time before the commencement or completion of the development or works.

(3) A person who receives a direction under subsection (1) must comply with that direction.

30 (4) A person who, without reasonable excuse, contravenes subsection (3) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 6 months or to both.

(5) In this section, “development or works” includes —

- (a) the erection, construction, alteration, repair or maintenance of any building, structure, road or path;
- (b) the breaking up or opening of, or the boring under, any road, land or other place in connection with the construction, inspection, maintenance or removal of any works;
- (c) piling, demolition, land clearance or dredging works; and
- (d) any other works of engineering construction.

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Power to remove wildlife traps, etc.

10A.—(1) An authorised officer may, after giving reasonable notice in writing to the owner or occupier of any place, enter the place at a reasonable time to —

- (a) inspect the place for any unattended or unauthorised wildlife trap; or
- (b) remove or dismantle any unattended or unauthorised wildlife trap in the place.

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(2) An authorised officer may —

- (a) subject to subsection (1), without notice to any person, remove or dismantle any unattended or unauthorised wildlife trap in any place; and
- (b) without notice to any person, dispose of the unattended or unauthorised wildlife trap in any manner the authorised officer thinks fit.

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(3) No compensation is payable to anyone for any wildlife trap removed, dismantled or disposed of under this section.

(4) Nothing in this section makes it obligatory for an authorised officer to inspect any place for, or remove or dismantle, any unattended or unauthorised wildlife trap.

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(5) A reference in this section to an unauthorised wildlife trap is a reference to a wildlife trap that is set, placed or prepared in any place in contravention of section 5C(1) or 7(1).

5 (6) In this section, “wildlife trap” means a trap set, placed or prepared in any place for the purpose of killing, trapping or taking any wildlife.”.

New sections 11A, 11B and 11C

10. The principal Act is amended by inserting, immediately after section 11, the following sections:

10 **“Powers of search, etc.**

11A.—(1) For the purpose of ascertaining whether any offence under this Act has been or is being committed —

15 (a) any authorised officer or police officer may, without warrant, enter any place in which any wildlife is kept, or is suspected to be kept, and search the place and any person in the place; and

20 (b) any authorised officer, police officer or officer of customs may, without warrant, stop and enter any conveyance used, or suspected to be used, for carrying wildlife, and search the conveyance and any person in the conveyance.

(2) The following persons must provide all necessary assistance and information required by an enforcement officer acting in respect of a place or conveyance under subsection (1):

25 (a) the owner or occupier of the place;

(b) the owner or person in charge of the conveyance;

(c) any person found in the place or conveyance;

(d) the owner of any wildlife found in the place or conveyance.

30 (3) An enforcement officer acting in respect of a place or conveyance under subsection (1) may —

- (a) if the circumstances so warrant, remove anything obstructing the enforcement officer's entry to the place or conveyance or break open any door, window, lock, fastener, hold, compartment, box, container or any other thing; 5
- (b) take any photograph or audio or video recording that the enforcement officer considers necessary of the place or conveyance (including any person and anything in the place or conveyance); and
- (c) examine any wildlife (whether alive or dead), or any part of a wildlife, found in the place or conveyance. 10

(4) No compensation is payable to any person in respect of any damage to the person's property caused or occasioned by any act authorised by subsection (3)(a) or (c).

(5) A person in charge of a conveyance who, without reasonable excuse, does not stop the conveyance when required to do so by an enforcement officer under subsection (1)(b) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 6 months or to both. 15 20

Powers of seizure, etc.

11B.—(1) Where an authorised officer or a police officer has reason to believe that an offence under this Act has been committed or is being committed, or where an officer of customs has reason to believe that an offence under this Act relating to import or export has been or is being committed, the authorised officer, police officer or officer of customs may seize the following: 25

- (a) any wildlife (whether alive or dead), part of a wildlife, or article being the subject matter of the offence; 30
- (b) any article or conveyance with which, or by means of which, the offence is reasonably suspected to be, or have been, committed;

(c) any food or drink which accompanies a seized wildlife;

(d) any other thing which appears to be or to contain evidence of the offence.

5 (2) Subject to subsection (4), when any wildlife, article, conveyance or other thing is seized under subsection (1), the enforcement officer who seized it must —

(a) arrange for the seized item to be removed to and detained in a compound, enclosure or other place determined by the Director-General or an authorised officer for that purpose; and

(b) report the seizure and detention to a Magistrate.

(3) The Magistrate may order the further detention or the release of the seized item.

15 (4) Where the seized item is perishable, the Director-General or an authorised officer may dispose of it in any manner the Director-General or authorised officer thinks fit.

(5) The Director-General or an authorised officer may subject the seized item to any examination or analysis that the Director-General or authorised officer (as the case may be) considers necessary for the purposes of this Act.

Enforcement officer's assistants

25 **11C.** An enforcement officer may be accompanied or assisted by persons necessary for the exercise of the enforcement officer's powers under section 10A, 11A or 11B.”.

Amendment of section 12

11. Section 12 of the principal Act is amended —

(a) by deleting the words “or any order or rule made thereunder” in subsection (1); and

30 (b) by deleting “\$1,000” in subsection (3) and substituting the words “\$10,000 or to imprisonment for a term not exceeding 6 months or to both”.

Amendment of section 12B

12. Section 12B of the principal Act is amended —

(a) by deleting subsections (3) and (4) and substituting the following subsections:

“(3) The Director-General or an authorised officer may serve a production notice to require any person who is reasonably believed to have any document or article in the person’s possession, custody or control relating to the contravention mentioned in subsection (1) to produce that document or article within the time specified in the notice.

(4) A person who is served an information notice under subsection (1) may decline to furnish the required information if it would have a tendency to expose the person to a criminal charge or to penalty or forfeiture.

(4A) A person who, without reasonable excuse, fails to comply with an information notice under subsection (1), or a production notice under subsection (3), shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 6 months or to both.”;

(b) by deleting “\$1,000” in subsection (5) and substituting the words “\$10,000 or to imprisonment for a term not exceeding 12 months or to both”; and

(c) by inserting, immediately after the word “information” in the section heading, the word “, etc.”.

New sections 12C to 12L

13. The principal Act is amended by inserting, immediately after section 12B, the following sections:

“Forfeiture by court in criminal proceedings

5 **12C.**—(1) A court may, in proceedings where a person is tried for an offence under this Act, order that a seized item in connection with the offence be forfeited to the Director-General if —

(a) where the seized item is a conveyance — the person is convicted of the offence and the conveyance is proved to have been used in the commission of the offence; or

10 (b) where the seized item is not a conveyance — the court is satisfied that the offence has been committed and that the seized item was the subject matter, or used (or intended to have been used) in the commission, or constitutes evidence, of the offence.

(2) Subsection (1)(a) does not apply to a conveyance which —

15 (a) is of more than 200 tons net; or

(b) is an aircraft or a train belonging to a person carrying on a regular passenger service to and from Singapore by means of that aircraft or train.

20 (3) The court may consider the question of forfeiture under subsection (1) on its own motion if no party raises the question in the proceedings before the court.

25 (4) A conveyance mentioned in subsection (1)(a) must not be forfeited under that provision if its owner establishes that the conveyance was unlawfully in the possession of another person without the consent of the owner.

(5) The court may make an order under subsection (1)(b) for the forfeiture of any seized item despite that no person is convicted of the offence.

30 (6) The court must order the release of a seized item to the owner of or the person entitled to the seized item if —

(a) the court, having regard to the circumstances of the case, does not think it fit to order the forfeiture of the seized item under subsection (1);

- (b) the requirements of subsection (1)(a) or (b) (as the case may be) are not met; or
- (c) the seized item is a conveyance mentioned in subsection (2) or (4).

Forfeiture in other circumstances

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12D.—(1) Where section 12C does not apply, the Director-General must give the person from whom the item was seized and the owner (if known) of the item a written notice requiring any claim for the item to be made in accordance with subsection (2) within the time specified in the notice.

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(2) A person who wishes to claim a seized item mentioned in subsection (1) (called in this section the claimant) must submit, either personally or through an authorised agent, a written claim (containing the basis of the claimant’s claim) to the Director-General.

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(3) On receiving the written claim under subsection (2), the Director-General may direct that the seized item be released to the claimant or refer the matter to a court for decision.

(4) If no claim is received for the seized item within the period stated in the notice mentioned in subsection (1) —

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- (a) in the case where the seized item is a conveyance, the Director-General must refer the matter to a court for decision; or

- (b) in any other case, the seized item is forfeited to the Director-General.

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(5) If the owner of a seized item (other than a conveyance) mentioned in subsection (1) consents to its disposal by the Director-General, the seized item is forfeited to the Director-General.

(6) In this section, “authorised agent”, for a claimant, means a person who is designated in writing by the claimant as the claimant’s authorised agent for the purposes of this section.

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Director-General's powers after forfeiture

12E.—(1) Where any item is forfeited to the Director-General under section 12C or 12D, the Director-General may —

5 (a) in the case where the item is a wildlife which was imported or introduced into Singapore in a conveyance in contravention of this Act, direct the owner of the conveyance to repatriate the wildlife to the place from which the wildlife was imported or introduced into Singapore or any other place designated by the Director-General; or

10 (b) dispose of the item in any manner the Director-General thinks fit.

(2) The owner of a conveyance who is directed to repatriate a wildlife under subsection (1)(a) must, at that owner's own expense, arrange for —

15 (a) the repatriation of the wildlife in accordance with the direction; and

 (b) the proper care and maintenance of the wildlife during the repatriation.

20 (3) A person is not required to comply with subsection (2) in respect of a direction made under subsection (1)(a) unless the direction is made within —

25 (a) 12 months after the date on which the wildlife mentioned in the direction was imported or introduced into Singapore; or

 (b) 6 months after the date on which proceedings for the offence in connection with that importation or introduction are concluded or the date on which the offence is compounded,

30 whichever is the later.

(4) A person who, without reasonable excuse, contravenes subsection (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 6 months or to both.

Expenses

12F.—(1) The following persons are responsible for any expenses incurred by the Director-General or any enforcement officer for the seizure, detention, storage, housing, maintenance, transport, repatriation or disposal of any seized item: 5

(a) in the case where the item is a wildlife which was imported or introduced into Singapore in contravention of this Act, the owner and the importer of the wildlife (jointly and severally);

(b) in the case where the item is a wildlife which was being exported from Singapore in contravention of this Act, the owner and the exporter of the wildlife (jointly and severally); 10

(c) in any other case, the owner of the item.

(2) If the amount of the expenses mentioned in subsection (1) is not paid by the person responsible for the expenses under that subsection within 14 days after demand, the amount may be reported to a Magistrate's Court or a District Court and recovered in the same manner as if it were a fine imposed by a Magistrate's Court or a District Court. 15 20

Obstruction

12G.—(1) A person commits an offence if the person, without reasonable excuse, obstructs or hinders the Director-General or an enforcement officer in the exercise of any power or performance of any function under this Act. 25

(2) A person who is guilty of an offence under subsection (1) shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months or to both.

Offences by employee or agent

5 **12H.**—(1) Where an offence under this Act is committed by an employee (in the course of employment) or an agent (in the course of acting as an agent) of a person (called in this section the defendant), the defendant shall be guilty of that same offence as is the employee or agent (as the case may be), and shall be liable on conviction to be punished accordingly if the defendant —

10 (a) consented or connived to effect the commission of the offence;

 (b) is in any other way, whether by act or omission, knowingly concerned in, or party to, the commission of the offence by the employee or agent; or

15 (c) knew or ought reasonably to have known that the offence by the employee or agent (or an offence of the same type) would be or is being committed, and failed to take all reasonable steps to prevent or stop the commission of that offence.

20 (2) The defendant may rely on a defence that would be available to the employee or agent if the employee or agent were charged with the offence with which the defendant is charged and, in doing so, the defendant bears the same burden of proof that the employee or agent would bear.

 (3) To avoid doubt, this section does not affect —

25 (a) the application of Chapters V and VA of the Penal Code, the Evidence Act (Cap. 97) or any other law or practice regarding the admissibility of evidence; or

30 (b) the liability of an employee or agent for an offence under this Act, and applies whether or not the employee or agent is convicted of the offence.

 (4) A reference in this section to an employee or agent of a defendant does not include —

- (a) where the defendant is a corporation, an individual mentioned in section 12I(2)(a) in relation to a corporation; or
- (b) where the defendant is an unincorporated association or a partnership, an individual mentioned in section 12J(2)(a) in relation to an unincorporated association or a partnership.

Offences by corporations

12I.—(1) Where, in a proceeding for an offence under this Act, it is necessary to prove the state of mind of a corporation in relation to a particular conduct, evidence that —

- (a) an officer, employee or agent of the corporation engaged in that conduct within the scope of his actual or apparent authority; and

- (b) the officer, employee or agent had that state of mind,

is evidence that the corporation had that state of mind.

(2) Where a corporation commits an offence under this Act, a person —

- (a) who is —

- (i) an officer of the corporation; or

- (ii) an individual involved in the management of the corporation and in a position to influence the conduct of the corporation in relation to the commission of the offence; and

- (b) who —

- (i) consented or connived, or conspired with others, to effect the commission of the offence;

- (ii) is in any other way, whether by act or omission, knowingly concerned in, or party to, the commission of the offence by the corporation;

or

(iii) knew or ought reasonably to have known that the offence by the corporation (or an offence of the same type) would be or is being committed, and failed to take all reasonable steps to prevent or stop the commission of that offence,

shall be guilty of that same offence as is the corporation, and shall be liable on conviction to be punished accordingly.

(3) A person mentioned in subsection (2) may rely on a defence that would be available to the corporation if it were charged with the offence with which the person is charged and, in doing so, the person bears the same burden of proof that the corporation would bear.

(4) To avoid doubt, this section does not affect the application of —

(a) Chapters V and VA of the Penal Code; or

(b) the Evidence Act or any other law or practice regarding the admissibility of evidence.

(5) To avoid doubt, subsection (2) does not affect the liability of the corporation for an offence under this Act, and applies whether or not the corporation is convicted of the offence.

(6) In this section —

“corporation” includes a limited liability partnership;

“officer”, in relation to a corporation, means any director, partner, chief executive, manager, secretary or other similar officer of the corporation, and includes —

(a) any person purporting to act in any such capacity; and

(b) for a corporation whose affairs are managed by its members, any of those members as if the member were a director of the corporation;

“state of mind” of a person includes —

(a) the knowledge, intention, opinion, belief or purpose of the person; and

- (b) the person's reasons for the intention, opinion, belief or purpose.

Offences by unincorporated associations or partnerships

12J.—(1) Where, in a proceeding for an offence under this Act, it is necessary to prove the state of mind of an unincorporated association or a partnership in relation to a particular conduct, evidence that — 5

- (a) an employee or agent of the unincorporated association or partnership engaged in that conduct within the scope of his actual or apparent authority; and 10

- (b) the employee or agent had that state of mind,

is evidence that the unincorporated association or partnership had that state of mind.

(2) Where an unincorporated association or a partnership commits an offence under this Act, a person — 15

- (a) who is —

- (i) an officer of the unincorporated association or a member of its governing body;

- (ii) a partner in the partnership; or 20

- (iii) an individual involved in the management of the unincorporated association or partnership and in a position to influence the conduct of the unincorporated association or partnership (as the case may be) in relation to the commission of the offence; and 25

- (b) who —

- (i) consented or connived, or conspired with others, to effect the commission of the offence;

- (ii) is in any other way, whether by act or omission, knowingly concerned in, or party to, the 30

commission of the offence by the unincorporated association or partnership; or

- (iii) knew or ought reasonably to have known that the offence by the unincorporated association or partnership (or an offence of the same type) would be or is being committed, and failed to take all reasonable steps to prevent or stop the commission of that offence,

shall be guilty of that same offence as is the unincorporated association or partnership (as the case may be), and shall be liable on conviction to be punished accordingly.

(3) A person mentioned in subsection (2) may rely on a defence that would be available to the unincorporated association or partnership if it were charged with the offence with which the person is charged and, in doing so, the person bears the same burden of proof as the unincorporated association or partnership would bear.

(4) To avoid doubt, this section does not affect the application of —

- (a) Chapters V and VA of the Penal Code; or
 (b) the Evidence Act or any other law or practice regarding the admissibility of evidence.

(5) To avoid doubt, subsection (2) does not affect the liability of an unincorporated association or a partnership for an offence under this Act, and applies whether or not the unincorporated association or partnership is convicted of the offence.

(6) In this section —

“officer”, in relation to an unincorporated association (other than a partnership), means the president, the secretary, or any member of the committee of the unincorporated association, and includes —

- (a) any person holding a position analogous to that of president, secretary or member of a

committee of the unincorporated association;
and

(b) any person purporting to act in any such capacity;

“partner” includes a person purporting to act as a partner; 5

“state of mind” of a person includes —

(a) the knowledge, intention, opinion, belief or purpose of the person; and

(b) the person’s reasons for the intention, opinion, belief or purpose. 10

Composition of offences

12K.—(1) The Director-General or an authorised officer may compound any offence under this Act that is prescribed as a compoundable offence by collecting from a person reasonably suspected of having committed the offence a sum not exceeding the lower of the following: 15

(a) one half of the amount of the maximum fine that is prescribed for the offence;

(b) \$2,000.

(2) On payment of the sum of money, no further proceedings are to be taken against that person in respect of the offence. 20

(3) All sums collected under this section must be paid into the Consolidated Fund.

Jurisdiction of courts

12L. Despite the Criminal Procedure Code, a District Court or a Magistrate’s Court has jurisdiction to try any offence under this Act and has power to impose the full punishment for that offence.”. 25

Amendment of section 14

14. Section 14 of the principal Act is amended by deleting the words “or any order made thereunder”. 30

New sections 15 to 21

15. The principal Act is amended by inserting, immediately after section 14, the following sections:

“Form and giving of notices and other documents

5 **15.—**(1) All notices and other documents of any nature that the Director-General is empowered to give under this Act may —

(a) be in any form the Director-General thinks fit; and

10 (b) subject to the direction of the Director-General, be given by an authorised officer on behalf of the Director-General.

(2) Where any notice or document mentioned in subsection (1) requires authentication, the signature (or an official facsimile of the signature) of the Director-General or an authorised officer
15 affixed to the notice or document is sufficient authentication.

Inaccuracies in notices and other documents

20 **16.—**(1) A misnomer or an inaccurate description of any wildlife, person, place, article or conveyance named or described in any notice or other document prepared, issued or served under, by reason of or for the purposes of this Act does not in any way affect the operation of this Act as respects that wildlife, person, place, article or conveyance if that wildlife, person, place, article or conveyance is so designated in the notice or other document as to be identifiable.

25 (2) Proceedings taken under or by reason of this Act are not invalid for want of form.

Evidence

30 **17.** A document purporting to be under the hand of the Director-General or an enforcement officer on any matter or thing in connection with the administration or enforcement of, or any investigation carried out under, this Act is admissible as evidence in any proceedings under this Act and is *prima facie* evidence of the facts stated in the document.

Protection from personal liability

18. No liability shall lie against the Director-General or an enforcement officer, or any person acting under the direction of the Director-General or an enforcement officer, for anything which is done or purported to be done, or omitted to be done, in good faith and with reasonable care in —

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- (a) the exercise or purported exercise of any power under this Act; or
- (b) the performance or purported performance of any function under this Act.

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Service of documents

19.—(1) A document that is permitted or required by this Act to be served on a person may be served as described in this section.

(2) A document permitted or required by this Act to be served on an individual may be served —

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- (a) by giving it to the individual personally;
- (b) by sending it by prepaid registered post to the address specified by the individual for the service of documents or, if no address is so specified, the individual's residential address or business address;
- (c) by leaving it at the individual's residential address with an adult apparently resident there, or at the individual's business address with an adult apparently employed there;
- (d) by affixing a copy of the document in a conspicuous place at the individual's residential address or business address;
- (e) by sending it by fax to the fax number last known to the person giving or serving the document as the fax number for the service of documents on the individual; or

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(f) by sending it by email to the individual's last email address.

(3) A document permitted or required by this Act to be served on a partnership (other than a limited liability partnership) may be served —

(a) by giving it to any partner or other similar officer of the partnership;

(b) by leaving it at, or by sending it by prepaid registered post to, the partnership's business address;

(c) by sending it by fax to the fax number used at the partnership's business address; or

(d) by sending it by email to the partnership's last email address.

(4) A document permitted or required by this Act to be served on a body corporate (including a limited liability partnership) or an unincorporated association may be served —

(a) by giving it to the secretary or other similar officer of the body corporate or unincorporated association, or the limited liability partnership's manager;

(b) by leaving it at, or by sending it by prepaid registered post to, the body corporate's or unincorporated association's registered office or principal office in Singapore;

(c) by sending it by fax to the fax number used at the body corporate's or unincorporated association's registered office or principal office in Singapore; or

(d) by sending it by email to the body corporate's or unincorporated association's last email address.

(5) Service of a document under this section takes effect —

(a) if the document is sent by fax and a notification of successful transmission is received, on the day of transmission;

(b) if the document is sent by email, at the time that the email becomes capable of being retrieved by the person to whom it is sent; and

(c) if the document is sent by prepaid registered post, 2 days after the day the document was posted (even if it is returned undelivered).

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(6) However, service of any document under this Act on a person by email may be effected only with the person's prior consent to service in that way.

(7) This section does not apply to documents to be served in proceedings in court.

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(8) In this section —

“business address” means —

(a) in the case of an individual, the individual's usual or last known place of business in Singapore; or

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(b) in the case of a partnership (other than a limited liability partnership), the partnership's principal or last known place of business in Singapore;

“last email address” means the last email address given by the addressee concerned to the person giving or serving the document as the email address for the service of documents under this Act;

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“residential address” means an individual's usual or last known place of residence in Singapore.

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Exemption

20. The Minister may, by order in the *Gazette*, exempt any person, place or wildlife, or any class of persons, places or wildlife, from all or any of the provisions of this Act, either generally or in a particular case and subject to any condition the Minister may impose.

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Rules

21.—(1) The Minister may make rules necessary or convenient to be prescribed for carrying out or giving effect to this Act.

5 (2) In particular, the Minister may make rules for all or any of the following:

(a) the control, registration or management of wildlife or any class of wildlife;

10 (b) procedures for the inspection of places or conveyances under this Act;

(c) applications for the Director-General's approval under this Act and related procedures;

(d) the prescribing of fees for the purposes of this Act;

15 (e) the prescribing of anything that is required or permitted to be prescribed under this Act.

(3) Rules made under this section may —

(a) prescribe the offences under this Act that may be compounded; and

20 (b) provide that the contravention of any provision of the rules shall be an offence punishable with a fine not exceeding \$50,000 or with imprisonment for a term not exceeding 2 years or with both.”.

Repeal of Schedule

16. The Schedule to the principal Act is repealed.

25 Saving and transitional provisions

30 17.—(1) For a period of 2 years after the date of commencement of any provision of this Act, the Minister may, by regulations, prescribe provisions of a saving or transitional nature consequent on the enactment of that provision that the Minister may consider necessary or expedient.

(2) This section does not affect section 16 of the Interpretation Act (Cap. 1).

EXPLANATORY STATEMENT

This Bill seeks to amend the Wild Animals and Birds Act (Cap. 351) for the following main purposes:

- (a) to expand the scope of, and update, the Act;
- (b) to control the feeding and release of wildlife in Singapore;
- (c) to enable the Director-General, Wildlife Management (the DG) of the National Parks Board (NParks) to require wildlife-related measures to be implemented to address the impact of developments or works in relation to wildlife;
- (d) to introduce new offences and enhance criminal penalties in the Act;
- (e) to enhance enforcement powers in the Act;
- (f) to remove outdated provisions and improve the administration of the Act.

Clause 1 relates to the short title and commencement.

Clause 2 repeals and re-enacts the long title to provide an expanded description of the scope of the Act.

Clause 3 amends the short title — the new short title of the Act is the Wildlife Act.

Clause 4 amends section 2 to delete the definition of “wild animals and birds” and insert, in its place, new definitions of “animal”, “wildlife” and “wildlife species”. The new definitions, among other things, clarify that wildlife includes invertebrates and (to be consistent with other animal-related legislation) the young and eggs of wildlife.

The clause also inserts definitions of other expressions, including the following:

- (a) “animal-related business” — the definition is taken from the Animals and Birds Act (Cap. 7), and the expression appears in the new section 5C (killing, etc., of wildlife) to provide for specific penalties when an offence under that section is committed in specified circumstances by an animal-related business;
- (b) “enforcement officer” — the expression appears in various provisions relating to enforcement powers;

- (c) “place” — the expression appears in various provisions, including the new sections 5A (feeding of wildlife), 5B (releasing of wildlife), 5C (killing, etc., of wildlife), 7 (setting of spring guns, etc.) and 10A (authorised officers’ power to remove wildlife traps, etc.), and is defined as meaning any public or private place;
- (d) “protected wildlife” — this refers to a wildlife which belongs to a species of wildlife prescribed by the Minister (in rules made under the Act) to be a protected wildlife species; the expression appears in the new sections 5C (killing, etc., of wildlife) and 8 (sale or export of wildlife) to provide for the highest penalties when offences under those sections are committed in respect of a protected wildlife.

Clause 5 repeals section 3 (on Minister’s powers to make orders) as it is largely outdated or no longer used. Instead, a new section empowering the Minister to make rules is provided in the new section 21 (under clause 15).

Clause 5 also re-enacts section 3 to clarify, for the avoidance of doubt, that the Act does not affect the operation of the specified written laws, and that the Act does not affect police officers’ powers or duties under the Criminal Procedure Code (Cap. 68) or other written laws.

Clause 6 inserts a new section 4A to provide that authorised officers (appointed under the current section 4) are public servants for the purposes of the Penal Code (Cap. 224). If an authorised officer is involved in the administration, assessment, collection or enforcement of payment of a composition sum under the Act, the authorised officer is also treated as a public officer for the purposes of the Financial Procedure Act (Cap. 109), and section 20 of the Financial Procedure Act (disciplinary punishment for loss of public moneys, etc.) will apply to the authorised officer. This is because composition sums have to be accounted for in the Consolidated Fund.

Clause 7 repeals and re-enacts section 5 and inserts new sections 5A, 5B and 5C to improve the current provision on killing, taking, etc., of wildlife, introduce new provisions to control the feeding and release of wildlife and require the DG’s written approvals for specified activities.

The re-enacted section 5 provides that the DG’s written approvals under the Act for specified activities may be given generally (i.e., as applying to the general public) or to a particular person or a particular class of persons. The DG may also impose conditions on the approvals and decide on the form and manner for giving the approvals (which may include publishing the approvals and the conditions of the approvals on NParks’ official website).

The new section 5A prohibits the intentional feeding of wildlife in any place without the DG’s written approval. A person who has the DG’s written approval must comply with the conditions of the approval. Contravention of the section is an offence.

The new section 5B prohibits the intentional releasing of wildlife in any place without the DG's written approval. A person who has the DG's written approval must comply with the conditions of the approval. Contravention of the section is an offence.

The new section 5C is based on, and enhances, the current section 5 (on killing, taking or keeping of wildlife). The new section 5C prohibits the intentional killing, trapping, taking or keeping of wildlife in any place without the DG's written approval. A person who has the DG's written approval must comply with the conditions of the approval. Contravention of the section is an offence.

Where the offence is in respect of a protected wildlife, the offence attracts the highest punishment (fine not exceeding \$50,000, imprisonment for a term not exceeding 2 years or both) — this is irrespective of whether the offender is a person involved in an animal-related business (or not) or a repeat offender (or not).

Where the offence is not in respect of a protected wildlife and the offence is committed by a person involved in an animal-related business, the prescribed punishment is a fine not exceeding \$20,000, imprisonment for a term not exceeding 12 months or both.

Where the offence is not in respect of a protected wildlife and the offence is committed by a person not involved in an animal-related business, the prescribed punishment is —

- (a) a fine not exceeding \$10,000, imprisonment for a term not exceeding 6 months or both for a first offence; and
- (b) a fine not exceeding \$20,000, imprisonment for a term not exceeding 12 months or both for a repeat offence.

Clause 8 amends section 6 (on defence of property) to make consequential changes.

Clause 9 repeals and re-enacts sections 7, 8, 9 and 10, and inserts a new section 10A, to remove outdated or unnecessary provisions, improve the current provisions on the setting of spring guns, etc., for wildlife and the sale, export and import of wildlife, and introduce new powers relating to wildlife-related measures for developments or works and the removal of wildlife traps.

The re-enacted section 7 is based on the current section 9 on the setting of spring guns, etc., which are likely to endanger human life or cause grievous hurt to humans. The re-enacted section 7 prohibits the setting of spring guns, etc., in any place without the DG's written approval. A person who has the DG's written approval must comply with the conditions of the approval. Contravention of the section is an offence.

The re-enacted section 8 prohibits the sale (including offer for sale) or export of any living or dead wildlife (or any part of it) without the DG's written approval. A

person who has the DG's written approval must comply with the conditions of the approval. Contravention of the section is an offence. The re-enacted section 8 also prescribes a higher punishment if the offence is committed in respect of a protected wildlife.

The re-enacted section 9 prohibits the import of any living wildlife without the DG's written approval. A person who has the DG's written approval must comply with the conditions of the approval. Contravention of the section is an offence.

The re-enacted section 10 empowers the DG to direct a person to implement wildlife-related measures to manage or mitigate the impact of the person's developments or works in relation to wildlife. Directions under the section may be given at any time before the completion (including before the commencement) of the developments or works, and may be given from time to time as the occasion requires (as explained in the Interpretation Act (Cap. 1)). A person who contravenes a direction given under the section commits an offence.

The new section 10A provides that an authorised officer may enter a place at a reasonable time (after giving reasonable notice to the owner or occupier of the place) to inspect the place for any unattended or unauthorised wildlife trap, or to remove or dismantle any unattended or unauthorised wildlife trap in the place.

The authorised officer is not required to give notice (save for the notice to the owner or occupier of a place mentioned above) to anyone before removing, dismantling or disposing of any unattended or unauthorised wildlife trap found in any place, and no compensation is payable to anyone for the removal, dismantling or disposal of the wildlife trap.

The new section 10A also clarifies that an authorised officer is not obligated to inspect any place for, or remove or dismantle, any unattended or unauthorised wildlife trap.

Clause 10 inserts new sections 11A, 11B and 11C to confer search and seizure powers on authorised officers and other enforcement officers (defined under clause 4).

The new section 11A empowers authorised officers and police officers to enter a place in which wildlife is kept (or suspected to be kept), and search the place and any person in it, for the purpose of ascertaining whether an offence under the Act has been or is being committed.

The new section 11A also empowers authorised officers, police officers and officers of customs (collectively, enforcement officers) to stop and enter a conveyance in which wildlife is carried (or suspected to be carried), and search the conveyance and any person in it, for the same purpose.

The new section 11B empowers enforcement officers to seize wildlife and other things if there is reason to believe that an offence under the Act has been or is being committed, and provides for related matters.

The new section 11C provides that an enforcement officer may be accompanied or assisted by necessary persons when the enforcement officer exercises powers under the new section 10A, 11A or 11B.

Clause 11 makes a textual amendment to section 12 (on arrest powers) to make that section consistent with the rest of the Act, and also enhances the punishment for the offence prescribed in the section.

Clause 12 amends section 12B (on the DG's and authorised officers' power to require information about contravention of the Act) to include the power to require the production of documents or articles, and to enhance the punishment for the offence prescribed in the section.

Clause 13 inserts new sections 12C to 12L that deal with various matters.

The new sections 12C and 12D provide for the forfeiture of items seized under the Act.

The new section 12C deals with the treatment of seized items when a person is tried for an offence under the Act. The section requires the court to decide whether a seized item should be forfeited to the DG.

The following exceptions or restrictions apply when the seized item is a conveyance (defined under clause 4):

- (a) the court's power to forfeit a conveyance under the new section 12C applies only if the person who is tried for an offence under the Act is convicted of the offence, and the conveyance was used in the commission of the offence;
- (b) the court's power to forfeit a seized item under the new section 12C also does not apply if the conveyance is more than 200 tons net, or is an aircraft or a train used for a regular passenger service to and from Singapore;
- (c) the court must not order the forfeiture of a conveyance under the new section 12C if the owner of the conveyance establishes that another person had possessed the conveyance unlawfully without the owner's consent.

The new section 12C also requires the court to order the release of a seized item to the owner of or the person entitled to it if the requirements of the section are not met or if the seized item is a conveyance that cannot be forfeited under the section.

The new section 12D provides for the forfeiture, etc., of seized items in cases where a person is not tried for an offence under the Act. In these cases, the DG has to give notice to the persons specified in the section to submit their claims for a seized item within the time specified in the notice.

If a claim is received, the DG may release the seized item to the claimant or refer the matter to a court.

If no claim is received, the unclaimed item (if it is not a conveyance) is forfeited to the DG. If the unclaimed item is a conveyance, the DG must refer the matter to a court.

The new section 12E deals with the DG's powers to dispose, etc., an item forfeited under the new sections 12C and 12D. The DG's powers under the new section 12E include the power to require the repatriation of any wildlife imported or introduced into Singapore in a conveyance in contravention of the Act.

The new section 12F provides for the expenses of the seizure, storage, maintenance, etc., of a seized item to be borne by certain persons specified in the section.

The new section 12G provides for the offence of obstructing the DG or an enforcement officer.

The new section 12H deals with employers and principals and attributes criminal liability to them for offences committed by their employees or agents.

The new section 12I deals with corporate offenders and attributes criminal liability to officers of corporate entities for offences committed by those entities.

The new section 12J deals with unincorporated entities and attributes criminal liability to officers, etc., of unincorporated entities for offences committed by those entities.

The new section 12K empowers the DG or an authorised officer to compound a compoundable offence under the Act.

The new section 12L is a standard provision on the jurisdiction of the District Courts and Magistrates' Courts for offences under the Act.

Clause 14 amends section 14 to make a consequential change.

Clause 15 inserts new sections 15 to 21 to deal with various matters.

The new section 15 relates to procedural matters concerning notices or documents to be given by the DG under the Act.

The new section 16 states that an inaccuracy in the description of any wildlife, person, place, etc., in any document prepared or given under the Act does not affect the operation of the Act if the wildlife, person, place, etc., is otherwise identifiable in the document.

The new section 17 deals with evidentiary matters.

The new section 18 is a standard provision protecting the DG, enforcement officers and persons acting under the directions of the DG or an enforcement officer from personal liability for any act or omission in the execution of any

power, or performance of any function, under the Act, if the act or omission was done in good faith and with reasonable care.

The new section 19 is a standard provision on the service of documents under the Act. The section does not deal with service of court documents as this is governed by other written law.

The new section 20 empowers the Minister to exempt, by order in the *Gazette*, any person (or class of persons), place (or class of places) or wildlife (or class of wildlife) from all or any of the provisions of the Act.

The new section 21 empowers the Minister to make rules necessary or convenient for carrying out or giving effect to the Act.

Clause 16 repeals the Schedule to the Act (on specified wild animals and birds) as it is outdated or no longer used.

Clause 17 empowers the Minister to make regulations on saving and transitional provisions for any provision in the Bill. This power is available only for a period of 2 years after the date of commencement of that provision.

EXPENDITURE OF PUBLIC MONEY

This Bill will not involve the Government in any extra financial expenditure.
