

Evidence (Amendment) Bill 2018 to be gazetted on Friday

The Government will introduce the Evidence (Amendment) Bill 2018 into the Legislative Council (LegCo) to reform the common law rule against hearsay evidence in criminal proceedings (hearsay rule) by way of an elaborate legislative scheme.

A spokesman for the Department of Justice (DoJ) said today (June 20), "Under the proposed legislative scheme, hearsay evidence can be adduced if the parties agree, if no party opposes its admission, or if the court grants permission upon certain conditions being satisfied, including that the evidence is necessary and there is reasonable assurance that it is reliable."

The proposal is formulated on the basis of the recommendations of the Law Reform Commission of Hong Kong in its report on "Hearsay in Criminal Proceedings" published in November 2009.

The spokesman added that the proposed legislative scheme also contains other safeguards to prevent miscarriages of justice and unsafe convictions and strikes a fair balance between the fair trial right of the accused and other legitimate interests.

"The introduction of the new legislation would align the hearsay rule with the developments in other major common law jurisdictions, such as England and New Zealand. The reform will address the criticisms against the hearsay rule that it is strict and inflexible, is complicated and lacks clarity, and excludes hearsay evidence even if it is cogent and reliable," the spokesman noted.

A consultation on the proposals was conducted in 2017. The LegCo Panel on Administration of Justice and Legal Services was also briefed on the consultation exercise as well as the policy aspects of the Bill in March 2017 and February 2018 respectively. The Panel and responses received during the public consultation in 2017 were supportive of the proposed legislation.

The Bill will be gazetted on Friday (June 22) and introduced to LegCo on July 4.

Hong Kong Customs seizes suspected dangerous drugs (with photos)

Hong Kong Customs seized a batch of suspected dangerous drugs including

about 1 kilogram of suspected methamphetamine, 400 grams of suspected crack cocaine and 250 grams of suspected ketamine with an estimated market value of about \$1.16 million in total at Hong Kong International Airport, Sheung Shui and Mong Kok on June 16 and yesterday (June 19).

Customs officers inspected an air mail parcel arriving from Malaysia on June 16 and found about 250 grams of suspected ketamine. After investigation, Customs officers yesterday arrested a 29-year-old man suspected to be in connection with the case in Sham Shui Po.

Customs officers also intercepted a 30-year-old man in Sheung Shui yesterday afternoon. About 400 grams of suspected crack cocaine and a batch of drug packaging paraphernalia were found inside his private car. The man was then arrested.

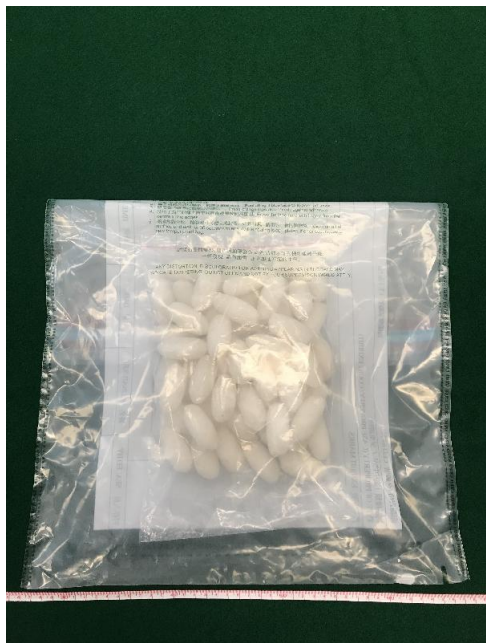
Customs officers intercepted another 30-year-old man in Mong Kok on the same night and found about 1 kilogram of suspected methamphetamine inside a plastic bag carried by him. Subsequently, the arrested person was escorted to a residential premises in the vicinity where a batch of drug packaging paraphernalia was seized. Small amounts of suspected methamphetamine and crack cocaine were further seized in his residence in Yau Tong.

Investigations are ongoing.

Under the Dangerous Drugs Ordinance, trafficking in a dangerous drug is a serious offence. The maximum penalty upon conviction is a fine of \$5 million and life imprisonment.

Members of the public may report any suspected drug trafficking activities to the Customs 24-hour hotline 2545 6182 or dedicated crime-reporting email account (crimereport@customs.gov.hk).





LCQ16: Protection of animal rights, interests and welfare

Following is a question by the Hon Chan Hak-kan and a written reply by the Secretary for Food and Health, Professor Sophia Chan, in the Legislative Council today (June 20):

Question:

Regarding the protection of animal rights, interests and welfare, will the Government inform this Council:

- (1) whether it will study the formulation of guidelines on the space, food, water, etc. that animal keepers are required to provide for various types of animals;
- (2) whether it will organise courses on the knowledge and skills needed for keeping various types of animals; if so, of the details; if not, the reasons for that;
- (3) of the number, content and effectiveness of the dog training courses organised in the past five years for dog owners by the Agriculture, Fisheries and Conservation Department;
- (4) whether it will consider afresh making it mandatory for persons convicted of cruelty to animals or animal abandonment to attend courses relating to animal welfare; if so, of the details; if not, the reasons for that;

(5) whether it will consider amending the legislation to require cat owners to arrange for microchipping their cats; if so, of the details; if not, the reasons for that;

(6) as there are views that the number of animals being adopted has been on the low side over the years, whether the authorities will launch an animal adoption fund to support animal welfare organisations (AWOs) to promote animal adoption; if so, of the details; if not, the reasons for that;

(7) given that with the completion of the three-year "Trap-Neuter-Return" Trial Programme for Stray Dogs in January this year, the authorities indicated last month that they were open-minded about AWOs or other groups conducting this type of programme at specific locations, of the attitude taken by the authorities regarding the implementation of the same type of programme to tackle the problem of stray cats, as well as whether they will provide the relevant organisations or groups with the resources and support needed;

(8) of the number of cases in which animals smuggled into the territory were seized by the authorities in each of the past five years, with a breakdown by the boundary control point where such animals were seized; among such cases, the number and percentage of those involving endangered species; the measures to be put in place to step up the efforts in combating such smuggling activities; and

(9) of the number of complaints received by the authorities in the past five years involving pet services (including beauty, boarding, hospice services) and the use of animals in commercial activities (e.g. pet cafes); the legislation currently in place to regulate such activities, and whether it will study stepping up the regulation of the relevant activities through licensing; if so, of the details; if not, the reasons for that?

Reply:

President,

Having consulted the relevant departments, my reply to various parts of the question is as follows.

(1) and (2) To further protect animal welfare, the Government is exploring the introduction of a concept of positive duty of care on animal keepers in the legislation. At the same time, having regard to overseas practices and the situation in Hong Kong, we plan to draw up code(s) of practice for animal caring, covering among others requirements for carers to provide their animals with suitable diet and living environment, with a view to protecting animal welfare and health.

The Agriculture, Fisheries and Conservation Department (AFCD) has set up a dedicated website on animal keeping and management (www.pets.gov.hk/english/index.html), which provides relevant information on taking proper care of various types of pets. In addition, AFCD and partner

organisations organise various activities from time to time to promote animal welfare and adoption, and provide the public with the knowledge of animal keeping. To tie in with the above legislative amendments and code(s) of practice for animal caring, we will further enhance our publicity and education efforts.

(3) AFCD organised a total of 22 dog training courses for more than 750 dog owners from 2013 to May 30, 2018. Featuring both theory and practical sessions, these courses covered common behavioural problems of dogs and basic skills in dog training, with the aim of promoting the message on responsible pet ownership and educating participants on proper control of dogs. These courses were well-received with positive feedback, showing that dog owners considered them helpful in enriching their knowledge of dog management. AFCD will continue to allocate resources for organising more dog training courses.

(4) In reviewing the legislation relating to animals, we will also examine the feasibility of empowering the courts to prohibit convicted persons from keeping animals again having regard to severity of the cases. Meanwhile, AFCD will explore ways to help convicted persons enhance their knowledge of proper caring of animals, such as through providing online courses or information, and encouraging them to take dog training courses, etc.

(5) Cats are usually kept indoors. Since cats infected with rabies are less likely to exhibit aggressive behaviour, the risk of spreading rabies in the community by cats is far lower than that by dogs. Under the Rabies Regulation (Cap 421A), cat owners are not required to have their cats licensed, vaccinated against rabies and microchipped.

This notwithstanding, cat owners may take their cats to veterinary clinics for vaccination against rabies and microchipping for identification purpose. Furthermore, in reviewing the effectiveness of the Public Health (Animals and Birds) (Trading and Breeding) Regulations (Cap 139B) in the future, we will also consider whether it is necessary to extend the regulation to also cover cat breeding and trading activities, as well as to incorporate the requirement of microchipping cats for sale.

(6) AFCD has been collaborating with animal welfare organisations (AWOs) to enhance animal welfare and promote animal adoption. As most AWOs are non-profit making with limited resources, the Government, as long as resources permit, has been providing subvention for these AWOs since 2011 to support their work, which includes promoting animal adoption and disseminating messages on responsible pet ownership, etc. Interested AWOs may submit their applications together with details of their animal welfare initiatives, estimated budget, and the associated performance indicators under the proposed programme to AFCD for consideration.

With the implementation of the above-mentioned measures and the close collaboration between AFCD and AWOs, the number of stray cats and dogs caught by AFCD has decreased by around 70 per cent over the past five years. Over the same period of time, the animal adoption rate has been gradually rising from 10.8 per cent in 2013 to 15.6 per cent in 2017. We will continue to step

up our efforts in promoting animal adoption.

(7) Cats are not a major source of rabies transmission, thus having less implication for public health and safety. At present, some AWOs (such as the Society for the Prevention of Cruelty to Animals) run the "Trap-Neuter-Return" programme for stray cats with their own resources. AFCD has been supporting work of the organisations concerned, by explaining the programme to relevant stakeholders and handling complaints about stray cats.

(8) In accordance with the Public Health (Animals and Birds) Ordinance (Cap 139) and the Rabies Ordinance (Cap 421), AFCD regulates the import of animals from other places through a permit system to prevent the transmission of diseases into Hong Kong through animals.

AFCD's dog handlers perform duties with their quarantine detector dogs at various boundary control points in Hong Kong, and take surveillance and enforcement actions against illegal import of animals in collaboration with other law enforcement departments. If any act of illegal import of animals is found or suspected, members of the public may report the case to AFCD.

On publicity and education, dog handlers, together with their quarantine detector dogs, often conduct talks and demonstrations at schools and in local communities to promote the messages on prevention of animal smuggling.

The number of cases relating to seizure of animals smuggled into the territory by AFCD in the past five years is at Annex 1.

(9) The Public Health (Animals and Birds) (Trading and Breeding) Regulations (Cap 139B) and the Public Health (Animals) (Boarding Establishment) Regulations (Cap 139I) regulate the activities of animal traders and boarding establishments respectively in Hong Kong. A breakdown of complaints against such shops received by AFCD in the past five years is at Annex 2.

As stipulated in the Prevention of Cruelty to Animals Ordinance (Cap 169), any person who cruelly beats, kicks, ill-treats, over-rides, over-drives, overloads, tortures, infuriates, or terrifies any animal, or, by wantonly or unreasonably doing or omitting to do any act, causes any unnecessary suffering to any animal commits an offence, and shall be liable on conviction to a fine of \$200,000 and to imprisonment for three years. Enforcement departments will follow up on individual cases depending on the evidence available. Any person who intentionally causes suffering to animals when operating an animal related business (e.g. animal grooming) may be prosecuted.

Regarding "animal cafe", operators are required to comply with the Food Business Regulation (Cap 132X) just as operators of other food premises. As for hospice services for animals, operators are required to comply with the provisions of relevant ordinances, including the Public Health and Municipal Services Ordinance (Cap 132), the Air Pollution Control Ordinance (Cap 311), the Fire Services Ordinance (Cap 95), the Dangerous Goods Ordinance (Cap 295) and the Buildings Ordinance (Cap 123), as well as land lease conditions. The

numbers of complaints about hospice services for pets received by the Environmental Protection Department, the Lands Department and the Fire Services Department respectively in the past five years are set out in Annex 3.

The Government currently has no plan to set up a separate licensing system for regulating other commercial activities relating to animals.

Managers of unlicensed guesthouses fined

Two women were fined \$8,000 and \$10,000 at Kowloon City Magistrates' Courts today (June 20) for contravening the Hotel and Guesthouse Accommodation Ordinance.

The courts heard that in November last year, officers of the Office of the Licensing Authority (OLA), the Home Affairs Department, inspected two suspected unlicensed guesthouses on Changsha Street and Shantung Street in Mong Kok. During the inspections, the OLA officers posed as lodgers and successfully rented rooms in these guesthouses on a daily basis.

According to the OLA's records, these guesthouses did not possess licences under the Ordinance on the days of inspection. The women responsible for managing the premises were charged with contravening section 5(1) of the Ordinance.

A department spokesman stressed that operating or managing an unlicensed guesthouse is a criminal offence and will lead to a criminal record. Upon conviction, the offender is liable to a maximum fine of \$200,000 and two years' imprisonment.

The spokesman appealed to anyone with information about suspected unlicensed guesthouses to report it to the OLA through the hotline (Tel: 2881 7498), by email (hadlaeng@had.gov.hk), by fax (2504 5805) using the report form downloaded from the OLA website (www.hadla.gov.hk), or through the mobile application "Hong Kong Licensed Hotels and Guesthouses".

LCQ19: Spectrum for provision of fifth

generation mobile services

Following is a question by the Hon Charles Mok and a written reply by the Acting Secretary for Commerce and Economic Development, Dr Bernard Chan, in the Legislative Council today (June 20):

Question:

To tie in with the launch of the fifth generation (i.e. 5G) mobile service in the market in 2020, the Communications Authority (CA) has decided to re-allocate the radio spectrum in the 3.4 – 3.7 GHz band from fixed satellite service (FSS) to mobile service with effect from April 1, 2020. Moreover, in order to avoid radio interference with the existing earth stations for telemetry, tracking and control of satellites in orbit (TT&C Stations), CA has decided to set up restriction zones in Tai Po (which will cover areas including the entire Tai Po District, Shatin, Ma On Shan, Fanling, Sai Kung, and the core areas of scientific research activities in the Hong Kong Science Park and The Chinese University of Hong Kong) and Stanley, in which the installation of mobile base stations of public mobile services operating in the 3.4 – 3.6 GHz band (3.5 GHz band) is forbidden. Some members of the information and technology sector have relayed to me that the setting up of such restriction zones will render members of the public residing and working in the restriction zones unable to use 5G mobile service in future, directly affecting scientific research activities and smart city development. In this connection, will the Government inform this Council:

(1) of the respective populations of the two aforesaid restriction zones, and the respective numbers of households, courts/estates, industrial buildings, office buildings, shopping centres, schools, universities, companies and scientific research institutions (if any) covered by them (set out in a table);

(2) whether CA has assessed (i) the impact on the daily lives of the residents in the zones, (ii) the impact on the scientific research and economic activities in the zones and (iii) the losses to be sustained by the entire local economy (including the loss caused by the failure to provide 5G mobile service in the zones), to be brought about by the setting up of the two restriction zones; whether CA will remove the two restriction zones, or reduce their coverage; if CA will, of the details and the implementation timetable;

(3) whether CA had, before deciding to re-allocate the aforesaid spectrum, studied (i) the identification of alternative sites for relocating the existing TT&C Stations and (ii) the minimum area to be covered by the restriction zones; if CA had, of the details; if not, the reasons for that;

(4) apart from the two restriction zones, whether CA has studied forbidding the installation of mobile base stations of public mobile services operating in the 3.5 GHz band in other areas or locations; if CA has, of the areas or locations involved and the reasons for that; and

(5) whether CA has plans to relocate the FSS-related facilities to avoid the impact of the setting up of the restriction zones on the use of 5G mobile service and scientific research activities; if CA does, of the details of the plans and the implementation table?

Reply:

President,

Consolidated reply to the five parts of the question is as follows.

Hong Kong and the Asia-Pacific region have been allocating the 3.4 – 4.2 GHz band for use by satellite services for years. Currently, there are two satellite companies in Hong Kong which operate a total of 12 satellites. These satellites are important external telecommunications facilities for Hong Kong as a telecommunications hub in the region. At present, the two satellite companies have set up earth stations for telemetry, tracking and control (TT&C Stations) in Tai Po and Stanley for the operation of the satellites in space orbit. In view of the development of mobile communications in recent years, upon frequency coordination with the Mainland authorities and completion of the relevant public consultation exercise, the Communications Authority (CA) decided in March 2018 to re-allocate the 3.4 – 3.7 GHz band from satellite services to mobile services, and to assign the 3.4 – 3.6 GHz band (3.5 GHz band) for public mobile services with effect from April 1, 2020. This arrangement provides an advance notice of about two years to the affected licensees so that they can make necessary changes and adjustment. Since the TT&C Stations will still need to make use of the 3.4 – 3.7 GHz band to operate the satellites already launched, and the base stations for mobile services may cause interference to the TT&C Stations, in making its decision on the re-allocation, the CA has to impose restriction zones around these TT&C Stations whereby future deployment of base stations for mobile services (including the fifth generation (5G) mobile services) operating in the 3.5 GHz band inside the restriction zones will not be allowed.

According to the "Projections of Population Distribution 2015-2024" published by the Planning Department, the population in these two restriction zones is roughly estimated to be around 740 000. However, we must point out that coverage of 5G services will be available in these restriction zones in future (as explained below). We do not have other breakdowns as requested in part (1) of the question.

To ensure that the current spectrum management is in line with the 5G development, apart from re-allocating the 3.5 GHz band for public mobile services (including 5G services), the CA also plans to allocate the 26 GHz band (24.25 – 27.5 GHz band) and the 28 GHz band (27.5 – 28.35 GHz band) for public mobile services. Such spectrum, which is planned for assignment in 2019-2020, amounts to a total of 4 300 MHz, seven times more than the aggregate amount of spectrum currently deployed for the second, third and fourth generation (2G, 3G and 4G) mobile services. Hence, 5G services will be provided through a number of frequency bands, instead of relying on the 200 MHz of spectrum in the 3.5 GHz band alone. Besides, in accordance with the

technology neutral principle, operators may refarm their existing 2G/3G/4G spectrum for 5G services. The CA will continue to identify more spectrum for 5G services. All the spectrum can be used for provision of 5G services to cover areas within the restriction zones applicable to the 3.5 GHz band.

In late May 2018, mobile network operators (MNOs) proposed to the Office of the Communications Authority (OFCA) some measures for reducing the size of the restriction zones. Whether the measures proposed by MNOs are feasible will need to be examined by way of in-depth technical analysis and/or field tests. OFCA has already set up a working group comprising satellite operators and MNOs in order to identify options which are technically feasible and acceptable to all operators. The working group already convened its first meeting in early June and will continue to conduct regular discussions.

As for MNOs' proposal to relocate the existing TT&C Stations, there is no legal basis for the CA to unilaterally request satellite operators to relocate their existing TT&C Stations which are legally set up, invested and put to use. In fact, the TT&C Stations concerned have been in operation for more than 20 years. Satellite operators indicated that the relocation of TT&C Stations will not only involve substantial investment, but will also disrupt their operation. That said, if satellite operators have plans to relocate their stations or set up new backup stations to reduce the constraints on employing spectrum in the 3.5 GHz band for 5G services, OFCA will provide full assistance.

In sum, any concern on 5G development and coverage in individual areas being affected due to the need to protect satellite services when using spectrum in the 3.5 GHz band is one-sided, and reflects that those having such concern may not have a full picture of the 5G development. As advised by the Commerce and Economic Development Bureau and OFCA on various occasions, the first batch of new 5G spectrum is primarily in the 26 GHz and 28 GHz bands which the CA plans to assign in early 2019, ahead of the assignment of spectrum in the 3.5 GHz band. Various areas of Hong Kong, including the restriction zones applicable to the 3.5 GHz band, can have 5G coverage by using spectrum in the 26 GHz and 28 GHz bands at an earlier stage.