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The Wild Animals and Birds (Amendment) Act (Act No 16 of 2020)

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Legislation Note:

The Wild Animals and Birds (Amendment) Act (Act No 16 of 2020)

Parliament passed the *Wild Animals and Birds (Amendment) Act* (the "Amendment Act") on 25 March 2020, and it came into force on 8 May 2020. The *Wild Animals and Birds Act* ("WABA")[1] traces its roots to the *Wild Birds Protection Ordinance, 1884* ("WBPO")[2] but had not been substantially updated since 1965. The *Wild Animals and Birds (Amendment) Bill* (the "Amendment Bill")[3] had been introduced in Parliament by the Member of Parliament ("MP") for Nee Soon, Mr Louis Ng Kok Kwang, as a Private Member's Bill.

According to the Explanatory Notes of the Amendment Bill, the Bill sought to amend WABA in the following ways:

(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 … of the National Parks Board … 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(f) to remove outdated provisions and improve the administration of the Act.

These changes to WABA are long overdue, and pertinent and welcome, particularly at a time when the biodiversity-rooted COVID-19 pandemic continues to rage and remind us that public health is intimately connected with the health of ecosystems and the health of our wildlife. This legislation note is a commentary on the main changes made by the Amendment Act to WABA.

Renaming

The Amendment Act renamed WABA as the "Wildlife Act" ("WA").

Purpose

The long title of the WA is now "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". This long title provides greater specificity about its purposes – the maintenance of a health ecosystem and safeguarding public safety and health and replaces the more generic long title of WABA: "an Act relating to wild animals and birds". Greater specificity about the purposes of the Act will aid in the interpretation of provisions under the WA; and the exercise of discretion by the regulator under the Act.

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[1] Cap 351, 2000 Rev Ed.
[2] Ordinance III of 1884.
[3] Bill No 15/2020 <https://www.parliament.gov.sg/docs/default-source/default-document-library/wild-animals-and-birds-(amendment)-bill-15-2020.pdf>.

Scope

Whereas WABA applied to all wild animals and birds; with "wild animals and birds" defined as "[including] all species of animals and birds of a wild nature, but [excluding] domestic dogs and cats, horses, cattle, sheep, goats, domestic pigs, poultry and ducks"; "wildlife" is now defined as "an animal that belongs to a wildlife species, and includes *the* young or egg of the animal". An animal is however defined as "[including] any mammal, bird, reptile, amphibian, fish or invertebrate...". "Wildlife species" is defined as "species of animals of a wild nature, but excludes domestic dogs and cats, horses, cattle, sheep, goats, domestic pigs and poultry".

The new definitions bring greater clarity to the scope of the WA, and in particular clarifies that, subject to prescribed exemptions, it includes mammals, reptiles, amphibians, fish, and invertebrates, and the young and eggs of species of animals of a wild nature.

Intentional Feeding, Release, Killing, Trapping, Taking, Keeping of Wildlife

The core offences under the WA of intentionally feeding wildlife,[4] releasing wildlife,[5] and killing, trapping, taking, or keeping wildlife,[6] in a place[7] without approval from the Director General of Wildlife Management ("DGWM") are found in the new sections 5A to 5C. These offences replace the offence under the original s 5 of WABA of killing, taking or keeping any wild animal or bird, other than those specified in the Schedule, without a licence.

Injury to Wildlife

Firstly, the new offences leave unchanged the position in WABA that injuring wild animals and birds is not an offence under WABA. It might perhaps be argued that since it is already an offence under the *Animals and Birds Act* ("ABA")[8] to cause any animal unnecessary pain or suffering by wantonly or unreasonably doing or omitting to do any act,[9] there is no need to further criminalise injury to wildlife without approval from the DGWM. However, the WA serves purposes that include maintaining a healthy ecosystem whereas ABA's purpose includes the general welfare of animals. Furthermore, under the animal cruelty provisions under the ABA do not apply to "any act in the course of the destruction, or the preparation for destruction of any animal as food, unless that destruction or preparation was accompanied by the infliction of unnecessary suffering".[10] It may therefore be desirable to criminalise injuring wildlife to maintain the health of an ecosystem even if an animal suffers no unnecessary pain and suffering. In this regard, it is noteworthy that the conservation-

[4] WA, s 5A.
[5] WA, s 5B.
[6] WA, s 5C.
[7] As defined in the WA, a place can be a public place or a private place, on land or underground, on water or underwater.
[8] Cap 7. 2002 Rev Ed.
[9] Animals and Birds Act, s 42.
[10] ABA, s 42(3).

centred *Parks and Trees Act* ("PTA")[11] and *Parks and Trees Regulations* ("PTR")[12] prohibit a person from carrying out any activity within a national park, nature reserve, or a public park, which the person knows or ought reasonably to know causes or may cause injury to, or the death of, any animal in the national park, nature reserve, or the public park respectively.[13]

"Intentionally"

Secondly, while sections 5A and 5B of the WA have created new offences for the intentional feeding and release of wildlife without approval, the replacement of s 5 of WABA with s 5C of the WA has also likely raised the bar for the offence of killing, taking or keeping wild animals and birds under WABA.

Section 26C of the *Penal Code* ("PC")[14] defines "intentionally"; and s 6A of the PC provides that this definition "applies to any offence in this Code *or in any other written law* unless that written law expressly provides for a definition or explanation of that same word or expression".[15] Since the WA does not define "intentionally", the definition of "intentionally" in s 26C of the PC also applies to offences in the WA.

Section 26C provides that,

> (1) A person is said to do an act intentionally where that person does an act deliberately.
> (2) A person is said to cause an effect intentionally where that person does anything that causes an effect —
> (a) with the purpose of causing that effect; or
> (b) knowing that that effect would be virtually certain (barring an unforeseen intervention) to result.
> (3) To avoid doubt, a person does not intend or foresee a result of his acts by reason only of it being a natural and probable consequence of those acts.
> (4) To avoid doubt, nothing in this section prevents a court from relying on a person's foresight that a certain effect was a probable consequence of his act as a basis to draw an inference that the person caused that effect intentionally.

Thus, an offence that is committed only if an act is done "intentionally" is one that requires a very high degree of fault. For comparison, one can look to the PC's definition of a number

[11] Cap 216, 2006 Rev Ed.
[12] Cap 216, RG 1, 2006 Rev Ed.
[13] PTA, s 9(2); and PTR, rg 5(b).
[14] Cap 224, 2008 Rev Ed.
[15] Emphasis added.

of alternative “fault elements” which carry a lower degree of fault than “intentionally”: “knowingly”;[16] “rashly”;[17] “negligently”;[18] and “strict liability”.[19]

To illustrate the stringency of the “intentionally” fault element, it would not be an offence under s 5C of the WA for a person to rashly or negligently kill a wildlife. No offence is committed as long as the wildlife’s death was not the purpose of the person’s act and the death was not known by the person to be a virtually certain effect of the act.

Similarly, to prove a person has committed an offence of intentionally feeding or releasing a wildlife or of feeding a wildlife under sections 5A or 5B of the WA respectively, it would not enough to show that the person threw food onto the ground or unlocked the cage of a wildlife if it cannot be shown his purpose of doing so was to feed the wildlife or to release the wildlife (as the case may be), or the person knew that it was virtually certain that a wildlife would feed on the food or exit the cage.

During the debate for preceding the Second Reading of the Bill, the MP for Tampines expressed some concern about the elevated burden of proving intentionality for the offences. She pointed out that,

> In relation to the new section 5A which makes intentional feeding of any wildlife without approval an offence, I find that the use of the word “intentional” may be a challenging one to enforce, as it puts the burden on the state to prove intent. I could imagine people using excuses of feeding "domestic" animals as a means to excuse themselves from this ruling. It might be a small loophole, but a loophole nonetheless.
>
> The new section 5C makes it an offence to intentionally kill, trap, take or keep wildlife. Currently, section 5(1) of WABA makes it an offence for any person to kill, take or keep wildlife without a permit. The new offence requires the additional element of intention which, as before, the state has to prove. This is a high bar, as one could be trying to trap a pesky rat but, inadvertently, catch a Southeast Asian Shrew, a rare forest native.
>
> The intent of the matter is hard to prove and we should consider removing that requirement. Instead, we should educate our people to not trap, hunt or kill wildlife, and instead call upon professionals to

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[16] Section 26D of the PC provides that, “Whoever does an act with awareness that an effect will be caused, or is virtually certain … to be caused, is said to do that act knowingly in respect of that effect … Where doing an act knowingly is a fault element of an offence, that fault element is also established where that act is done intentionally or with wilful blindness”.

[17] Section 26E of the PC provides that, “Whoever does any act knowing that there is a real risk that an effect will be caused is said to do that act rashly in respect of that effect, if it would have been unreasonable to have taken that risk … Where doing an act rashly is a fault element of an offence, that fault element is also established where that act is done intentionally or knowingly”.

[18] Section 26F of the PC provides that, “Whoever omits to do an act which a reasonable person would do, or does any act which a reasonable person would not do, is said to do so negligently … Where doing an act negligently is a fault element of an offence, that fault element is also established where that act is done intentionally, knowingly or rashly”.

[19] Section 26H of the PC provides that, “An offence of strict liability under this Code or any written law is one where, for every physical element of the offence, there is no corresponding fault element … Strict liability is said to apply to a particular physical element of an offence where there is no corresponding fault element for that physical element, regardless of whether or not the offence is one of strict liability”.

> get it done. As we inevitably encroach into the spaces of wildlife, they, too, will move into ours. How we structure our laws will help to protect one from the other.[20]

In response to her point, the MP for Nee Soon explained that the offences were not intended to punish non-malicious feeders who want to do good; such feeders were better dealt with through education than punishment. With due respect to the MP for Nee Soon, this explanation conflates intention with motivation. The offences are committed as long as the acts are intentional, regardless of whether they are motivated by kindness or malice. Intentionally putting a wildlife to sleep to ease its suffering may be act of kindness, but it is also an offence unless the DGWM has given his approval. Conversely, even where a person is motivated by malice to act in a way towards wildlife to cause serious injury to the wildlife and put the wildlife at a real risk of death, no offence is committed as long as the wildlife's death is not the purpose of the act and the person does not know that its death is a virtually certain effect of the act.[21]

Once again, for comparison, it is worth noting that similar offences under the PTA and the PTR do not require the same high level of fault element as the offences in sections 5A to 5C of the WA. As noted earlier, it is an offence for any person to carry out any activity within any national park, nature reserve, or a public park, which he *knows or ought reasonably to know* causes or may cause injury to, or the death of, any animal or any other organism within the national park, nature reserve, or the public park, respectively.[22]

In contrast to s 5C of the WA, s 5 of WABA was silent as to whether the killing, taking or keeping without licence had to be intentional or indeed had any fault element. It was at least arguable that these were strict liability offences. This means that a person who accidentally or incidentally killed, took, or kept a wild animal or bird would arguably still have committed an offence under WABA, unless he could prove that he had acted with reasonable care.[23]

Apart from the under-inclusivity of the offences, there was also a concern of over-inclusivity. The MP for Bukit Batok noted during the debate to move the Second Reading of the Amendment Bill that a person who comes across a wounded wildlife may be deterred from feeding it and releasing it out of kindness, and expressed the hope that a general approval could be given by the DGWM for such situations.[24] In response, the MP for Nee Soon encouraged would-be rescuers to call NParks or Animal Concerns Research Education Society, a non-governmental organisation, instead of rendering untrained human intervention that could do more harm than good.[25] Whether criminalising acts of misplaced

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[20] Singapore Parl Debates; Vol 94, Wild Animals and Birds (Amendment) Bill; [25 March 2020] <http://sprs.parl.gov.sg/search/sprs3topic?reportid=bill-436>.
[21] Singapore Parl Debates; Vol 94, Wild Animals and Birds (Amendment) Bill; [25 March 2020] <http://sprs.parl.gov.sg/search/sprs3topic?reportid=bill-436>.
[22] PTA, s 9(2); and PTR, rg 5(b).
[23] See PC, s 26H(4).
[24] Singapore Parl Debates; Vol 94, Wild Animals and Birds (Amendment) Bill; [25 March 2020] <http://sprs.parl.gov.sg/search/sprs3topic?reportid=bill-436>.
[25] Singapore Parl Debates; Vol 94, Wild Animals and Birds (Amendment) Bill; [25 March 2020] <http://sprs.parl.gov.sg/search/sprs3topic?reportid=bill-436>.

kindness will lead to more trained humans interventions or fewer interventions overall, whether trained or untrained, may be something to look out for.

DGWM Approval

Approvals by the DGWM may be given generally, or to a particular person or a particular class of persons; subject to any condition the DGWM thinks fit; and in any form or manner the Director-General thinks fit.[26] A number of wildlife species have been approved for keeping as pets, subject to specified conditions.[27]

As in WABA, there are no statutory provision in the WA on how the DGWM will exercise his discretion whether to give approval or determine the conditions that may be attached to an approval. However, the new long title now makes it clear that the statutory powers have been conferred on the DGWM for the purposes of maintaining a healthy ecosystem and safeguarding public safety and health. Thus, when exercising his discretion, he would need to at least consider whether his decisions would advance these purposes.

One way in the DGWM's discretion could be better structured is to prescribe an 'wildlife/ecosystem impact assessment' along the lines of an environmental impact assessment ("EIA"). As noted elsewhere,[28] Singapore still does not have an EIA law. Introducing a mandatory wildlife/ecosystem impact assessment into the WA would have gone some way to mitigate the absence of an EIA law. The WA could also have required that when considering whether to give his approval for an activity regulated under ss 5A to 5C and if so, the conditions for the approval, the DGWM must take into consideration whether the wildlife under consideration is prescribed as a protected wildlife.

Exemptions

The *Wildlife (Exemption) Order 2020*[29] exempts a number of wildlife from the scope of operation of s 5C. This means that DGWM approval is not required for the intentional killing, trapping, taking, or keeping of the wildlife set out in the Order. Exemptions purportedly include pest species; and non-threatened species of invertebrates,[30] namely the Asian house shrew, a number of species of rats, birds, reptiles, and all species of invertebrates other than those prescribed as protected wildlife, namely the common birdwing butterfly, giant clams, and a number of species of corals.[31]

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[26] WA, s 5.
[27] NParks, "Keeping of Wildlife as Pets" <https://www.nparks.gov.sg/avs/animals/wildlife-and-endangered-animals/keeping-of-wildlife-as-pets>.
[28] See Joseph Chun and Lye Lin Heng, *Environmental Law in Singapore* (Academy Publishing, 2019), Chapter 4.
[29] No S 414 of 2020.
[30] Singapore Parl Debates; Vol 94, Wild Animals and Birds (Amendment) Bill; [25 March 2020] <http://sprs.parl.gov.sg/search/sprs3topic?reportid=bill-436>.
[31] See *Wildlife (Protected Wildlife Species) Rules 2020* (No S 411 of 2020).

The exemption of pest species from offences under s 5C of the WA is understandable; it appears that the status quo had been preserved due to "public concerns", and the exemption of pest bird species will be reviewed at a later stage.[32]

Instead of retaining the previous practice under WABA of allowing pest bird species to be indiscriminately killed, taken, or kept, and possibly also increase the number of cases of accidental or incidental killing, trapping, taking, and keeping of non-exempted wildlife, it would perhaps be better to have subject the killing, trapping, taking, and keeping of some of the pest species, particularly the pest bird species, to approval to ensure that these activities are carried out professionally.

The definitive exclusion of all species of invertebrates from s 5C of the WA other than those prescribed as protected wildlife from the scope of the WA promotes clarity but appears to narrow the scope of wildlife regulated under the WA when compared with the scope of wild animals and birds regulated under WABA.[33] Furthermore, an almost blanket exemption of invertebrates from s 5C of the WA reinforces to mistaken belief that invertebrates are somehow second-class wildlife that deserve less protection, and also increases the risk of accidental or incidental killing, trapping, taking or keeping of non-exempted wildlife.

Punishment

In place of the maximum punishment of a fine of $1000 under WABA; the maximum punishment for the new offences under the WA are higher and range from a $5000 fine to a fine of $50000 and/or imprisonment for 2 years. In the case of sections 5A and 5C, the maximum punishment varies according to whether it is first-time or second or subsequent conviction of the offence for the offender conviction. In the case of s 5C, the maximum punishment also varies according to whether the wildlife is a protected wildlife,[34] whether the offence is committed in the course of carrying on or employment under an animal-related business.[35] These new maximum punishments are intended to be on par with similar offences under the PTR,[36] but are in fact on the whole higher than similar offences under the PTR (which are fixed at $5000).

Protected Wildlife

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[32] Singapore Parl Debates; Vol 94, Wild Animals and Birds (Amendment) Bill; [25 March 2020] <http://sprs.parl.gov.sg/search/sprs3topic?reportid=bill-436>.

[33] See for example, Louisa Tang, "Student Fined S$17,000 for Importing 23 Tarantulas, Keeping Another 20 in Bedok Flat" (25 March 2020) *Today* <https://www.todayonline.com/singapore/student-fined-s17000-importing-23-tarantulas-keeping-another-20-bedok-flat>; and Louisa Tang, "Man Charged With Keeping 4 Tarantulas in Punggol flat, Importing 8 Others" (19 August 2020) *Today* <https://www.todayonline.com/singapore/man-charged-keeping-4-tarantulas-punggol-flat-importing-8-others>.

[34] See *Wildlife (Protected Wildlife Species) Rules 2020* (No S 411 of 2020).

[35] As defined in the WA, an animal-related business is the operation of a place or establishment for any of a number of specified purposes and need not actually be a business. Businesses in respect of animals intended for consumption are excluded from the definition.

[36] Cap 216 RG1, 2006 Rev Ed. See Singapore Parl Debates; Vol 94, Wild Animals and Birds (Amendment) Bill; [25 March 2020] <http://sprs.parl.gov.sg/search/sprs3topic?reportid=bill-436>.

In his speech to move the Second Reading of the Amendment Bill, the MP for Nee Soon noted that the general approach for the prescription of "protected wildlife species" is to prescribe wildlife that are domestically threatened using “robust selection criteria” to be developed by the Ministry for National Development and NParks, and taking reference in the first instance from the Appendices of the Convention on International Trade in Endangered Species of Wild Fauna and Flora and the Singapore Red Data Book, and progressively refining and amending it in consultation with experts and the nature community.

The introduction of an authoritative list of protected wildlife is a welcome development, and its value can go beyond enhancement of punishment for wildlife offences. For example, it is hoped that reference to is can also be made mandatory for other purposes such as the grant of approval of activities regulated under ss 5A to 5C; and the issuance of directions to take wildlife-related measures and nature of these measures under s 10A. Beyond the WA, an authoritative list of protected wildlife can a mandatory reference in amendments to the Master Plan and the grant of written permission for the development of land under the *Planning Act*;[37] and the establishment of national parks and nature reserves or redrawing of their boundaries under the PTA.[38]

Defence of Property

The Amendment Act makes minor consequential changes to s 6 of WABA, by additionally excusing the trapping of wildlife by an occupier or person in charge of land who finds the wildlife damaging or destroying crops or any other property on the land. However, it leaves intact the lack of a requirement for the occupier or person in charge to exhaust reasonable preventive measures or to take only proportionate defensive measures in the section.[39] This omission opens up to the risk of owners or occupiers reacting disproportionately to avoidable or minor property damage by wildlife on their land.[40]

Sale and Export of Wildlife

Under s 8(e) of WABA, it was an offence to expose or offer for sale or export any wild animal or bird (other than those specified in the Schedule) or the skin or plumage of any such wild animal or bird, unless it can be shown that the animal or bird was lawfully killed or taken. This offence is now replaced with an offence under s 8 of the WA of exposing of offering for sale or exporting of any wildlife (whether living or dead) or part of a wildlife, without approval from the DGWM.

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[37] Cap 232, 1998 Rev Ed, sections 8 and 12.
[38] PTA, s 62.
[39] See Joseph Chun and Lye Lin Heng, *Environmental Law in Singapore* (Academy Publishing, 2019), pp 657 to 658.
[40] See Lam Min Lee, “Homeowner Squeaks Displeasure Over Otters Feasting on Prized Koi” (1 October 2019) AsiaOne <https://www.asiaone.com/singapore/homeowner-squeaks-about-otters-feasting-koi> for an example where a homeowner could have taken disproportionate measures in defence of her property (but didn’t).

Thus, while under WABA, wild animals or birds, or their skin or plumage could be sold or exported if lawfully killed or taken; under the WA a separate approval for sale or export is required *even if* the wildlife was lawfully killed or taken.

In place of the maximum punishment of a $1000 fine for an offence under s 8(e) of WABA, the maximum punishment for an offence under s 8 of the WA in respect of the protected wildlife is a fine of $50,000 or prison sentence of up to 2 years; and in any other case a maximum punishment of a fine of $10,000 and/or a prison term of up to 12 months.

Import of Wildlife

The prohibition in s 10 of WABA of imports of wild animals or birds, whether alive or dead, or any part thereof, without authorisation has been replaced with the prohibition of imports of living wildlife without approval from the DGWM under s 9 of the WA. This streamlines the regulation of imports of wildlife as the import of dead wildlife or parts (whether separate or otherwise, or a portion thereof) is already regulated under the *Animals and Birds Act*,[41] and in some cases, also the *Endangered Species (Import and Export) Act*.[42]

Instead of the maximum punishment of a fine $1000 under WABA, the maximum punishment for importing wildlife without approval from the DGWM is a fine of up to $10,000 and/or imprisonment for up to 12 months.

Wildlife-related Measures

Section 10 of the WA confers on the DGWM a new power to direct a person to implement, in respect of any development or works being carried out or to be carried out, any "wildlife-related measure" that the DGWM considers necessary to safeguard:

(a) the health, welfare or safety of any wildlife or class of wildlife;
(b) public health or safety in relation to wildlife; or
(c) the health of the ecosystem.

Noncompliance with such a direction is an offence punishable with a fine of up to $50,000 and/or imprisonment for up to 6 months.

This power was said to be introduced to supplement a perceived gap in the enforcement of conditions imposed pursuant to an EIA,[43] but as worded, is not necessarily limited to recommended mitigation measures pursuant to an EIA. The power to impose wildlife-

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[41] Cap 7, 2002 Rev Ed, s 14.
[42] Cap 92A, 2008 Rev Ed, s 4.
[43] Singapore Parl Debates; Vol 94, Wild Animals and Birds (Amendment) Bill; [25 March 2020] <http://sprs.parl.gov.sg/search/sprs3topic?reportid=bill-436>. See also Singapore Parl Debates; Vol 94, Measures to Reduce Traffic Accidents Involving Animals in Mandai Area; [11 July 2018] <http://sprs.parl.gov.sg/search/sprs3topic?reportid=oral-answer-39>; and Fann Sim, "No Penalty for not Implementing Environmental Impact Mitigation Measures: Sun Xueling" (11 July 2018) *Channel NewsAsia* <https://www.channelnewsasia.com/news/singapore/mandai-developer-penalty-environmental-impact-mitigation-10519586>.

related measures is a welcome introduction. At the same time, it highlights the glaring absence of a legally mandated EIA or even wildlife impact assessment that could have incorporated a general legal obligation to comply with all conditions, and not merely "wildlife-related" ones.

"Wildlife-related" is not defined in the Act, and the restriction of measures to those that are "wildlife-related" may be unduly restrictive and unnecessarily contestable considering that any measure imposed under this section must already be considered necessary for achieving specified purposes.

Removal of Wildlife Traps

Section 10A of the WA confers on an authorised officer a new power to remove unattended or unauthorised[44] wildlife traps. Because of the way "wildlife traps" are defined in the section – a trap set, placed or prepared in any place *for the purpose of killing, trapping or taking any wildlife*[45] – it may not be easy to determine the purpose for which a trap is set, placed, or prepared and hence also not easy to identify a wildlife trap. Determining that a wildlife trap is "unauthorised" will not be easy either. For this purpose, the trap has to be set, placed, or prepared *in contravention of* sections 5C(1) or 7(1). This suggests that the trap must also either have actually led to a wildlife being killed, trapped, taken, or kept since the mere setting or placement of traps in a place does not contravene s 5C(1);[46] or is one which is likely to endanger human life, or cause grievous hurt to any individual.[47] In comparison, determining that a wildlife trap is "unattended" – although the word is not defined in the WA either – may be relatively easier.

An authorised officer must give the owner or occupier of a place reasonable notice before entering the place to inspect it for unattended or unauthorised wildlife traps, or to remove or dismantle such traps. The officer may, without notice to any person, remove or dismantle any unattended or unauthorised wildlife trap in any place; and dispose of the unattended or unauthorised wildlife trap in any manner he thinks fit, without compensation to anyone.

Powers of Search and Seizure, Forfeiture, and Disposal

Sections 11A of the WA confers on authorised officers and police officers a new power to enter, without warrant, any place in which wildlife is kept or suspected to be kept, and to search the place and any person in the place, for the purpose of ascertaining whether any offence under the WA has been or is being committed. Authorised officers, police officers, and customs officers are also now empowered to, 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, for the same purpose.

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[44] Section 10(5) provides that an unauthorised wildlife trap is one that is intentionally set, placed or prepared without DGWM.
[45] WA, s 10(6).
[46] WA, s 5C(1).
[47] See WA, s 7(1).

Where authorised officers, police officers, and customs officers have reason to believe that an offence under the WA has been committed or is being committed, s 11B confers on these officers the power to seize anything which appears to be or to contain evidence of the offence, including the wildlife, part of wildlife, traps, and conveyances, which are the subject matter of the offence or are the means by which such offences were committed.

Items seized under s 11B may be forfeited in accordance with sections 12C and 12D, and thereafter disposed of by the DGWM in accordance with s 12E. Section 12F provides for the recovery of costs by the DGWM for any expenses incurred in the seizure, detention, storage, housing, maintenance, transport, repatriation or disposal of any seized item.

Miscellaneous

The Amendment Act also introduced a number of miscellaneous provisions. These include an offence of obstructing or hindering the DGWM in the exercise of any power or performance of any function under this Act;[48] the vicarious liability of an employer or principal for offences committed by an employee or agent in the course of employment or acting as an agent;[49] and the personal liability of officers, employees, and agents for offences committed by corporations and unincorporated associations and partnerships.[50]

Final Remarks

The Amendment Act provides a much-needed update and refreshment of the antiquated WABA. Unfortunately, it has chosen to only criminalise intentional harm to wildlife, setting an unnecessarily high fault element, and thereby missed an opportunity to set a lower fault element and thereby impose a duty on everyone to exercise reasonable care to avoid foreseeable harm to wildlife. The WA complements the existing legislative framework for the protection of Singapore's precious biodiversity, and contributes to its ambition to become a "City in Nature".[51] To achieve this ambition however, will require more than the protection of wildlife and their habitats from the activities of businesses and individuals. Laws, starting with an EIA law, are also needed to mandate the transparency, openness, and accountability of government decisions purportedly made to 'balance' society's economic and environmental needs; these decisions have a far more significant impact on wildlife and ecosystem health. At the onset of climate change and the world's sixth mass extinction event, the duty for everyone to protect our biodiversity and ensure it thrives could not be more urgent.

[48] WA, s 12G.
[49] WA, s 12H.
[50] WA, sections 12I and 12J.
[51] NParks, "City in Nature" <https://www.nparks.gov.sg/about-us/city-in-nature>.