

分科二—政策及政務

Sub-division II - Policy and Administration



分科二由刑事檢控專員辦公室、犯罪得益組、部門檢控組，以及行政及支援組別組成，職責範疇多元化。在 2020 年，本分科由副刑事檢控專員兼人事主管何詠光先生領導。

在 2020 年，本分科的主要挑戰無疑是 2019 冠狀病毒病襲港。本分科各組別通力合作，就草擬和執行抗疫法例事宜為各決策局及執法機關提供法律意見，以支持政府的抗疫工作。此外，在法庭程序一般延期期間及政府僱員在家工作的安排實施期間，本分科與有關各方保持緊密聯繫，確保必要的公共服務不受干擾，運作如常。

本分科各組別的其他工作重點載述如下：

刑事檢控專員辦公室

刑事檢控專員辦公室（專員辦公室）致力促進刑事檢控科日常運作的成效，確保本科時刻全力以赴，有效率地履行職務。有關工作由專員辦公室轄下各組別負責處理。

管理組

管理組主要職責包括把法庭案件分派給合適的科內檢控人員或外判律師進行檢控，以及把尋求法律指引的個案轉交具備最適當專門知識的檢控人員處理。管理組經理須以謹慎敏銳的態度監督分工，確保案件以快捷專業的方式妥善處理。

在 2020 年，具爭議的複雜敏感案件數目仍然偏高，當中包括涉及法律或執法權力的行使是否合憲的案件。本組必須格外謹慎，任用合適且經驗豐富的律師處理此類案件，以確保本科不負所望，服務保持高度專業的水平。

政策組

政策組主要職責是就擬訂新法例和修訂現行法例所產生的檢控政策相關問題，向政府各決策局提供法律意見。有關工作通常涉及前所未有的複雜法律問題，並且影響深遠。

Sub-division II, comprising the Office of the Director of Public Prosecutions, the Proceeds of Crime Section, the Departmental Prosecutions Section and the Administration and Support Units, has a diverse portfolio of work. In 2020, the sub-division was led by Mr Paul Ho, Deputy Director of Public Prosecutions cum Chief of Staff.

The primary challenge faced by the Sub-division in 2020 was no doubt the COVID-19 epidemic in Hong Kong. Different Sections of the Sub-division worked together closely to support the Government's fight against COVID-19 by, amongst other things, the provision of legal advice to policy bureaux and law enforcement agencies on the drafting and enforcement of anti-epidemic legislation. Also, during the General Adjourned Period for court proceedings and the imposition of work from home arrangement for Government employees, the Sub-division liaised closely with all relevant parties to ensure no disruption of essential public services.

Other highlights of the work of different Sections of the Sub-division are set out below.

Office of the Director of Public Prosecutions

The Office of the Director of Public Prosecutions (ODPP) is dedicated to facilitating the effective day-to-day operation of the Prosecutions Division and ensuring that the Division is always on its mettle to discharge its functions efficiently. These matters are handled by individual units under the ODPP.

Management Unit

One of the primary duties of the Management Unit is to assign court cases to suitable in-house prosecutors or fiat counsel to prosecute, and to refer requests for legal advice to prosecutors who have the most appropriate expertise to deal with them. The Unit Manager has to monitor and supervise the assignment of duties carefully and sensitively to ensure that the cases would be handled properly, efficiently and professionally.

In 2020, the number of complex and sensitive cases involving controversial issues, such as constitutional challenge to the law or the exercise of law enforcement powers, remained high. The Unit had to exercise additional care in engaging suitable and experienced counsel to handle such cases to ensure that the high level of professional competency expected of the Division is maintained.



本組在 2020 年曾就多項擬訂法例提供意見，重要例子包括：

- (1) 根據《預防及控制疾病條例》（第 599 章）訂立的附屬法例；
- (2) 為落實刑事法律程序中傳聞證據法律改革的《2018 年證據（修訂）條例草案》；
- (3) 《2019 年吸煙（公眾衛生）（修訂）條例草案》；
- (4) 《2021 年稅務（修訂）（合資格合併、指明資產及電子報稅表）條例草案》；
- (5) 《專營的士服務條例草案》；
- (6) 提高違反職業安全與健康相關法例罰則的立法建議；以及
- (7) 引入窺淫、未經同意下拍攝私密處及相關罪行的立法建議。

另一方面，曾獲本分科提供意見的多條條例草案，包括《法院程序（電子科技）條例草案》和《2018 年旅館業（修訂）條例草案》，經立法會審議後獲得通過。

本組也就多個範疇的事宜定期向政府各決策局及部門提供意見，包括 (i) 制定或修訂執法的政策及常規以回應某些罪行的普及化、罪犯層出不窮的犯案手法和法律的變更；以及 (ii) 檢視各種聲稱造成損害的新興行為有何刑責。

本組亦負責擬備內部法律通告，以及代表部門出席青少年罪犯問題常務委員會和關注家庭暴力工作小組的恆常會議。

Policy Unit

The main duty of the Policy Unit is to give legal advice to different government bureaux on issues relating to prosecution policy arising from proposed new legislation and amendments to existing legislation which usually involve complex and novel legal issues, and have far-reaching implications.

Notable proposed legislation which the Unit had advised upon in 2020 included:

- (1) Subsidiary legislation made under the Prevention and Control of Diseases Ordinance (Cap. 599);
- (2) Evidence (Amendment) Bill 2018, which seeks to implement the law reform on hearsay evidence in criminal proceedings;
- (3) Smoking (Public Health) (Amendment) Bill 2019;
- (4) Inland Revenue (Amendment) (Qualifying Amalgamations, Specified Assets and Electronic Returns) Bill 2021;
- (5) Franchised Taxi Services Bill;
- (6) Legislative proposal to raise the penalties for contraventions of occupational safety and health-related legislation; and
- (7) Legislative proposal to introduce offences on voyeurism, non-consensual photography of intimate parts and related offences.

On the other hand, a number of bills which the Sub-division advised on, including the Court Proceedings (Electronic Technology) Bill and Hotel and Guesthouse Accommodation (Amendment) Bill 2018, went through the scrutiny of the Legislative Council and were passed successfully.

The Unit also regularly gives advice to government bureaux and departments on wide-ranging issues including (i) formulation or revision of enforcement policies and practice for tackling proliferating offences, changing *modus operandi* of offenders, and changes in the law; and (ii) examination of the criminality of new kinds of alleged mischiefs.

The Unit is also responsible for drafting internal Legal Circulars and represents the Department at regular meetings of the Standing Committee on Young Offenders and the Working Group on Combating Domestic Violence.

Training Unit

Advocacy is the core business of the Prosecutions Division. The Division aims to equip prosecutors with the necessary skills to

培訓組

刑事檢控科以訟辯為核心工作，致力培訓檢控人員，使他們具備所需技巧，以高度專業水平執行檢控工作，而有關事宜由培訓組負責。

在 2020 年，本組繼續舉辦一系列培訓課程（包括持續進修課程），並邀請多名刑事法律界的嘉賓講者及各領域的法證專家，主講刑事檢控科舉辦的課堂講座，課題涵蓋加密貨幣、野生生物、視頻及影像分析以至易受傷害證人。

本組在 2020 年為新入職的檢控官和見習律政人員舉辦了兩班刑事訟辯課程。該密集式課程為期 12 週，包括 (1) 一系列課堂講座，內容集中講解刑事法律、常規及程序的一些重要議題；(2) 模擬法庭實習訓練；以及 (3) 派駐裁判法院實習，其間學員會先在督導下執行案件檢控工作，然後才自行處理有關工作。

我們在 2020 年 1 月為受聘於政府其他部門和法定機構的檢控人員舉辦為期 14 天的檢控人員培訓課程，共有 45 名來自 22 個執法機關的人員參加。課程內容包括講座、法庭旁聽聆訊及模擬法庭實習訓練。

傳媒關係組

鑑於公眾對刑事司法制度的監察日益嚴謹，並對案件的檢控深表關注，傳媒關係組須在 2020 年投入更多人力資源，處理傳媒和市民大眾就刑事案件急增的查詢，以符合司法制度公開公正的要求，並顧及涉案各方的尊嚴和私隱權。

投訴及意見組

在 2020 年，投訴及意見組共處理 449 宗對本科工作的投訴及查詢。本組以公開、公平、公正的專業態度調查投訴，並採取適當行動跟進每宗個案所提事項。

除了處理投訴及查詢，本組也蒐集和聆聽意見。我們對收到的每項意見和關注，不論褒貶毀譽，均予重視，並相信這可增進本科與公眾之間的溝通，從而加強公眾對我們的工作和整體刑事司法制度的信心。

conduct prosecutions to the highest professional standard and the Training Unit is responsible for it.

In 2020, the Unit continued to organise a series of training programmes including the Continuing Education Programmes. Distinguished guests in the field of criminal law, as well as experts in various forensic disciplines, were invited to speak in lectures on topics ranging from cryptocurrency, wildlife, video and image analysis to vulnerable witnesses.

Two rounds of the Criminal Advocacy Course were held for our newly recruited Public Prosecutors and Legal Trainees in 2020. The intensive 12-week course comprised (1) a series of lectures focusing on important topics of criminal law, practice and procedures, (2) mock court exercises, and (3) attachment to the Magistrates' Courts during which participants prosecuted cases firstly under supervision and then on their own.

For Departmental Prosecutors employed by other government departments and statutory bodies, a 14-day Departmental Prosecutors Training Course was held for them in January 2020. A total of 45 participants from 22 law enforcement agencies attended the 14-day course, which comprised lectures, court visit, and mock court exercises.

Media Relations Unit

Due to the heightened public scrutiny of the criminal justice system and the immense public attention to prosecution of cases, the Media Relations Unit had to engage extra manpower in 2020 to deal with the surge in the number of enquiries made by the media and the general public regarding criminal cases with a view to meeting the requirement of open justice whilst at the same time balancing the dignity and the right to privacy of the parties concerned in the cases.

Complaints and Feedback Unit

In 2020, the Complaints and Feedback Unit handled a total of 449 cases of complaints and enquiries about the work of the Division. The Unit investigates into the complaints and takes appropriate follow-up actions to address the concerns raised in each individual case professionally in an open, fair and impartial manner.

Apart from handling complaints and enquires, the Unit also receives and listens to feedback. We value each and every view or concern conveyed to us, be it positive or negative. We believe communication between the Division and the general public can be strengthened so as to boost public confidence in our work and the administration of criminal justice as a whole.

犯罪得益組

香港作為環球金融中心及國際離岸人民幣業務樞紐，是世上最開放自由的經濟體之一，在金融服務、商貿、物流、專業服務等領域，均極具優勢。無疑，此優勢可能使香港的金融體系容易被濫用，以清洗犯罪得益。為保護香港的金融體系免遭犯罪分子利用，健全的限制和沒收機制可發揮重要作用，阻遏歹徒轉移犯罪得益，迫使他們交出非法收益，以及防止他們將有關得益再投資於其他犯罪行為。

香港設有一套完備的法律，以打擊洗黑錢及恐怖分子資金籌集活動。有關法例包括《販毒（追討得益）條例》（第 405 章）和《有組織及嚴重罪行條例》（第 455 章），兩者賦權法庭限制和沒收來自各種販毒和可公訴罪行的非法得益；針對恐怖分子財產的《聯合國（反恐怖主義措施）條例》（第 575 章）；向金融機構及其他實體施行“客戶盡職審查”規定的《打擊洗錢及恐怖分子資金籌集條例》（第 615 章）；以及就大量貨幣及不記名可轉讓票據的跨境流動設立申報及披露制度的《實體貨幣及不記名可轉讓票據跨境流動條例》（第 629 章）。

年內，本組人員努力不懈，績效斐然。2019 冠狀病毒病爆發後，司法機構實施法庭程序一般延期安排，儘管如此，我們仍合共取得 29 項限制令和 24 項沒收令，並凍結價值港幣 2.68 億元的可變現財產。法院命令沒收罪犯的非法得益總額為港幣 1.27 億元，經變現並撥入政府一般收入的款額達港幣 1.64 億元。下文概述經本組處理的一些值得注意的案件。

在高院刑事案件 2013 年第 561 號一案中，一所香港上市公司的主席在第二被告人和第三被告人協助下，透過複雜的公司架構隱瞞其在美国猶他州一些油田的實益權益。該等油田其後以極高利潤的價格售予該上市公司。該等被告人經審訊後被裁定多項串謀詐騙及洗黑錢罪名成立。在沒收聆訊期間，辯方辯稱該等被告人收取的部分款項不應計算為他們的利益。法庭不接納被告人的陳詞，並向第二被告人和第三被告人發出沒收令，涉及的款額分別為港幣 900 萬元和港幣 300 萬元。

Proceeds of Crime Section

As a global financial centre and an international offshore Renminbi business hub, Hong Kong has one of the world's most open and free economies and is highly competitive in the areas of financial services, business and commerce, logistics and professional services etc. This prestigious status of Hong Kong inevitably exposes the territory's financial system to potential misuse in laundering crime proceeds. To protect the financial system from being exploited by criminals, a robust system of restraint and confiscation plays an important part in frustrating the movement of crime proceeds, disgorging criminals of their illicit gains and preventing the proceeds from being reinvested to facilitate further crimes.

Hong Kong has a comprehensive set of anti-money laundering and counter-terrorist financing (“AML/CTF”) laws. The relevant legislation includes the Drug Trafficking (Recovery of Proceeds) Ordinance (Cap. 405) and the Organized and Serious Crimes Ordinance (Cap. 455), which empower the Court to restrain and confiscate illicit proceeds emanating from a range of drug trafficking and indictable offences; the United Nations (Anti-Terrorism Measures) Ordinance (Cap. 575), which targets terrorist property; the Anti-Money Laundering and Counter-Terrorist Financing Ordinance (Cap. 615), which imposes a “Customer Due Diligence” requirement on financial institutions and other entities; and the Cross-boundary Movement of Physical Currency and Bearer Negotiable Instruments Ordinance (Cap. 629), which introduces a declaration and disclosure system for cross-border movement of large quantities of currency and bearer negotiable instruments.

The hard work of the Section bore fruit in 2020. Notwithstanding the General Adjournment Period for court proceedings in response to the COVID-19 pandemic, a total of 29 restraint orders and 24 confiscation orders were successfully obtained. HK\$268 million worth of realisable property was frozen, and the total amount of illicit proceeds ordered to be confiscated from criminals was HK\$127 million. A total of HK\$164 million was realized and paid to the general revenue. Some notable cases handled by the Section are summarised as below:

In HCCC 561/2013, the chairman of a Hong Kong listed company, assisted by D2 and D3, concealed his beneficial interest in some oil fields in Utah, USA through a convoluted corporate structure. The oil fields were subsequently sold to the listed company for a substantial profit. The defendants were convicted after trial of various counts of conspiracy to defraud and money laundering. During the confiscation hearings, the defence contended that some of the payments received by them should not be counted towards their benefit. The Court rejected their submissions and made a



在區院刑事案件 2019 年第 83 及 463 號（綜合）一案中，第一被告人利用其兩名外籍家庭傭工安排他人賣淫，並透過實際控制多個銀行戶口清洗犯罪得益。她承認串謀依靠他人賣淫的收入為生及三項洗黑錢的控罪。在沒收聆訊期間，辯方辯稱營業分類帳上記錄的利益總額應扣減合法按摩業務所得及攤分予同案被告人和性工作者的盈利。法庭不接納該等陳詞，並向第一被告人發出沒收令，沒收其港幣 3,319 萬元。從限制措施效力充足和沒收數據來看，本組人員在凍結和追討資產方面的工作，卓有成效。

除了執法，本組人員也積極與海外同業合作，聯手打擊洗黑錢及恐怖分子資金籌集活動。香港是財務行動特別組織（FATF）和亞洲／太平洋反清洗黑錢組織（APG）的活躍成員。FATF 是跨政府組織，致力研究打擊洗黑錢及恐怖分子資金籌集活動的措施，並作出建議；而 APG 則是區域組織，着重確保其成員有效實施打擊洗黑錢及恐怖分子資金籌集活動的國際標準。在 2020 年 2 月，霍莎莎女士以視像會議方式參加在巴黎舉行的 FATF 會議，討論虛擬資產和使用數碼身分等對打擊洗黑錢及恐怖分子資金籌集活動帶來的風險。

confiscation order against D2 and D3 in the amount of HK\$9 million and HK\$3 million respectively.

In DCCC 83 & 463/2019 (consolidated), D1 enlisted her 2 foreign domestic helpers to arrange the prostitution of others, the proceeds of which were laundered through various bank accounts under her effective control. She was convicted upon her own pleas of conspiracy to live on earnings of prostitution of other and 3 charges of money laundering. During the confiscation hearing, the defence contended that the total value of benefit as reflected in the business ledgers should be deducted to take into account that some of the proceeds were originated from legitimate massage business, as well as the profit sharing with her co-defendants and the sex workers. The Court rejected those submissions and made a confiscation order against D1 in the amount of HK\$33.19 million. Adequate restraint and confiscation statistics indicate that the effort of members of the Section to freeze and recover assets are proving to be successful.

Enforcement of legislation aside, members of the Section proactively cooperated with overseas counterparts in the joint effort to combat money laundering and terrorist financing ("ML/TF"). Hong Kong is an active member of the Financial Action Task Force ("FATF") and the Asia/Pacific Group on Money Laundering ("APG"). FATF is an inter-governmental body dedicated to examining and recommending AML/CTF measures, whereas APG is a regional body focused on

在 2020 年，香港展開第二次洗黑錢及恐怖分子資金籌集風險評估，目的是識別、了解和更新香港面對的洗黑錢及恐怖分子資金籌集活動風險，然後據此制訂更具針對性的措施。為籌備評估，本組人員與各決策局、執法機關、監管機構、政府部門及私營持份者一直緊密合作。在 2020 年 11 月，李希哲先生、霍莎莎女士和黎健禧先生出席持份者工作坊，討論香港打擊洗黑錢及恐怖分子資金籌集活動的能力，以及各金融和非金融界別的弱點。評估仍在進行中，本組會繼續致力協助本港符合打擊洗黑錢及恐怖分子資金籌集活動的國際標準。

本組人員於年內舉辦多個研討會，讓相關團體掌握有關打擊洗黑錢及恐怖分子資金籌集法例和追討資產方面的最新發展。這些研討會對加強檢控人員與相關團體之間的合作，以有效打擊香港的洗黑錢和經濟罪行，至關重要。

部門檢控組

部門檢控組就多個執法機關調查的案件提供法律指引。該等案件往往因對社會有影響而引起傳媒的興趣。下文選錄本組在 2020 年處理的重要法律範疇或案件。

因應新型冠狀病毒疫情，多項根據《預防及控制疾病條例》（第 599 章）第 8 條訂立的規例在 2020 年獲得通過，以便對不同人士實行檢疫，以及規管在香港進行的商業活動或聚集。年內，本組經常就違反《若干到港人士強制檢疫規例》（第 599C 章）及《外國地區到港人士強制檢疫規例》（第 599E 章）所訂檢疫令的案件提供緊急法律指引，此類案件約有 200 宗。在香港特別行政區訴成見恭介（粉嶺裁判法院刑事案件 2020 年第 586 號）一案中，被告人在檢疫令中提供虛假地址，干犯“明知而提供在要項上屬虛假的資料”罪（即違反第 599C 章第 9 條），被判監禁三個月。在香港特別行政區訴 Ip Kwok-lam（屯門裁判法院傳票案件 2020 年第 6726-6728 號）一案中，被告人從外國返港後獲發檢疫令，卻多次離開檢疫地點，外出購買食品及日用品，被控三項違反第 599E 章所訂檢疫令的罪名，判監共八星期，緩刑 24 個月。

此外，本組也就針對違反《預防及控制疾病（規定及指示）（業務及處所）規例》（第 599F 章）

ensuring its members effectively implement the international standards on AML/CTF. In February 2020, Ms Jennifer Fok attended the FATF meeting held in Paris via videoconferencing to discuss the ML/TF risks of virtual assets and the use of digital identity etc.

In 2020, Hong Kong commenced her second Money Laundering and Terrorist Financing Risk Assessment. The purpose of the assessment is to identify, understand and update the ML and TF risks to which Hong Kong is exposed, which would then form the basis for the formulation of more targeted responses. To prepare for the assessment, members of the Section have been working closely with various policy bureaux, law enforcement agencies, regulatory authorities, government departments and private sector stakeholders. In November 2020, Mr Andrew Li, Ms Jennifer Fok and Mr Lucas Lai attended the stakeholders workshop to discuss the territory's ability to combat ML/TF and the vulnerabilities facing various financial and non-financial sectors. The assessment is still underway and the Section will continue its efforts to facilitate the territory's compliance with international AML/CTF standards.

In keeping the relevant bodies abreast of the current development of the AML/CTF law and asset recovery, members of the Section conducted seminars throughout the year. These seminars are essential in enhancing the joint effort among the Prosecution and the relevant bodies to effectively tackle money laundering and financial crimes in Hong Kong.

Departmental Prosecutions Section

The Departmental Prosecutions Section provides legal advice on cases investigated by various law enforcement agencies. Such cases often attract media interest because of their impact on society. Some of the significant areas of law or cases encountered by the Section in 2020 are set out below.

In view of the coronavirus epidemic, various regulations were passed under section 8 of the Prevention and Control of Disease Ordinance (Cap. 599) in 2020 for the quarantine of persons as well as the regulation of business activities or gatherings in Hong Kong. In 2020, the Section has provided legal advice in around 200 cases in relation to the breach of quarantine orders made under the Compulsory Quarantine of Persons Arriving at Hong Kong Regulation (Cap. 599C) and the Compulsory Quarantine of Persons Arriving at Hong Kong from Foreign Places Regulation (Cap. 599E), often on an urgent basis. In *HKSAR v Sing Kin Kung Kai* FLCC586/2020, the defendant, who had provided a false address on his quarantine order, was sentenced to 3 months' imprisonment for *knowingly giving information that is false in a material particular* contrary to section 9 of Cap. 599C. In *HKSAR v Ip Kwok-lam* TMS

或《預防及控制疾病（禁止羣組聚集）規例》（第 599G 章）的執法行動，向執法機關提供法律指引。在香港特別行政區訴郭永健及另七人（東區裁判法院定額罰款傳票案件 2020 年第 5-12 號）一案中，各被告人分別被裁定“參與受禁羣組聚集”罪罪成，判處監禁 14 天，緩刑 18 個月。

疫苗安全對公共衛生至關重要。在香港特別行政區訴環亞體檢集團有限公司（觀塘裁判法院傳票案件 2020 年第 7165 號）一案中，被告公司在香港經營化驗業務，並非列載毒藥銷售商或獲授權毒藥銷售商。衛生署接獲消費者投訴，指該公司在本港提供懷疑平行進口的人類乳頭瘤病毒疫苗（又稱“子宮頸癌疫苗”），遂突擊搜查該公司屬下辦事處，搜獲兩箱含有第 1 部毒藥的人類乳頭瘤病毒疫苗。被告公司承認《藥劑業及毒藥條例》（第 138 章）下“管有第 1 部毒藥”的控罪，被裁定罪名成立，罰款港幣 10,000 元。

《保護瀕危動植物物種條例》（第 586 章）所訂罪行的最高刑罰在 2018 年提高後，愈來愈多根據該條例提出檢控的案件提交區域法院審訊。在香港特別行政區訴 Rasolonirina Marie Yvon Aljymi [2020] HKDC 170 一案中，一名旅客被發現管有行李內的 57 隻活龜，約值港幣 816,555 元。案中被告人承認一項“進口附錄 I 物種的標本”

6726-6728/2020, the defendant, having returned to Hong Kong from a foreign country and being the subject of a quarantine order, left the place of quarantine on different occasions to purchase groceries. He was sentenced to a total of 8 weeks' imprisonment, suspended for 24 months, for 3 counts of breaches in relation to a quarantine order issued under Cap. 599E.

On a related note, the Section also provides legal advice to law enforcement agencies on enforcement actions against breaches of the Prevention and Control of Disease (Requirements and Directions) (Business and Premises) Regulation (Cap. 599F) or the Prevention and Control of Disease (Prohibition on Group Gathering) Regulation (Cap. 599G). In *HKSAR v Kwok Wing-kin and 7 Others* ESFS 5-12/2020, the defendants were each convicted of *participating in a prohibited group gathering* and sentenced to 14 days' imprisonment, suspended for 18 months.

Vaccine safety is of paramount importance to public health. In *HKSAR v AMH Medical Diagnostic Group Limited* KTS 7165/2020, the defendant company ran a business of laboratory testing services in Hong Kong and was neither a listed seller of poisons nor an authorized seller of poisons. Acting on complaints lodged by civilian consumers against the company for providing suspected parallel-imported HPV vaccines in Hong Kong, the Department of Health carried out a raid at the company's branch offices where 2 boxes of HPV vaccines containing Part I poison were found. The defendant company was convicted on its own plea and fined HK\$10,000 for *possession of Part I poison* contrary to the Pharmacy and Poisons Ordinance (Cap. 138).



(第一項控罪)和一項“殘酷對待動物”(第二項控罪)的控罪,被裁定罪名成立,判監共兩年。在香港特別行政區 訴 *Tshirobo Confidence* (第一被告)及 *Mathebula Rhulani* (第二被告) [2020] HKDC 210 一案中,第一及第二被告人飛抵香港國際機場轉機時,被發現管有行李內重量分別為 20.17 公斤及 20.41 公斤的犀牛角,各被裁定一項“進口附錄 I 物種的標本”罪罪成,判處監禁 26 個月。

香港土地匱乏,對非法佔用土地的情況採取執法行動尤為重要。在香港特別行政區 訴 *Wong Yu-cho* (粉嶺裁判法院傳票案件 2017 年第 11247 號)一案中,被告人獲批其房屋周邊政府土地的短期租約。在 2016 年 6 月 3 日,地政總署向他送達通知,終止有關租約並要求他在同年 12 月 13 日或之前把土地騰空交出。被告人不予理會,地政總署遂在有關地點再張貼通知,要求被告人在一個月內停止非法佔用土地。被告人既沒有遵從有關通知,也沒有請求延長時限,反而投訴清理行動缺乏理據,而地政總署給予的通知期也短得不合理。被告人未有遵從《土地(雜項條文)條例》(第 28 章)第 6(1)及(4)條所訂的土地通知,經審訊後在 2020 年 6 月 15 日被裁定罪名成立,罰款港幣 30,000 元。

本組也提供法律指引,就違反入境法例的罪行提出檢控。一家職業介紹所提交偽造僱傭合約和虛假文件,代多名申請人申請外籍家庭傭工簽證,入境事務處由 2018 年 3 月起就此進行大規模調查。17 名申請人被裁定“串謀欺詐”、“向入境事務主任作虛假申述”及“違反逗留條件”罪罪成並判處監禁,最高刑期為八個月。此外,在香港特別行政區 訴 *Wong Erni-Wahyuning* [2020] HKDC 379 一案中,區域法院裁定該職業介紹所的董事三項“串謀欺詐”罪及五項“使用虛假文書”罪罪成,判處監禁 43 個月。

A rising number of prosecutions under the Protection of Endangered Species of Animals and Plants Ordinance (Cap. 586) are brought to the District Court following the increase in maximum penalties of offences under the ordinance in 2018. In *HKSAR v Rasolonirina Marie Yvon Aljymi* [2020] HKDC 170, a traveller was found in possession of 57 live tortoises in his luggage, with an estimated worth of HK\$816,555. The defendant was convicted of 1 count of *importing specimens of Appendix I species* (Charge 1) and 1 count of *cruelty to animals* (Charge 2). He was convicted on his own plea and sentenced to a total of 2 years' imprisonment. In *HKSAR v Tshirobo Confidence* (D1) & *Mathebula Rhulani* (D2) [2020] HKDC 210, D1 and D2 were found in possession of 20.17 kg and 20.41 kg of rhino horns in their luggage respectively upon landing at Hong Kong International Airport on transit. They were each convicted of 1 count of *importing specimens of Appendix I species* and sentenced to 26 months' imprisonment.

Given the scarcity of land in Hong Kong, enforcement actions against the unlawful occupation of land is particularly important. In *HKSAR v Wong Yu-cho* FLS 11247/2017, the defendant obtained a short term tenancy for the government land surrounding his house. On 3 June 2016, the Lands Department served him a notice to terminate the tenancy and to require vacant possession be delivered by 13 December 2016. The defendant failed to do so and a further notice was posted on site requiring the defendant to cease the unlawful occupation within 1 month. The defendant failed to comply with the notice and did not ask for any extension of time. Rather, he complained that the clearance was unjustified and Lands Department had given an unreasonably short notice to him. On 15 June 2020, the defendant was convicted after trial for his failure to comply with the land notice under section 6(1) and (4) of the Land (Miscellaneous Provisions) Ordinance (Cap. 28) and fined HK\$30,000.

The Section also provides legal advice on the prosecution of immigration offences. Since March 2018, the Immigration Department had carried out a large-scale investigation on bogus employment contracts and false documents submitted by an employment agency in applications for foreign domestic helper visas on behalf of a number of applicants. 17 applicants had been convicted of offences including *conspiracy to defraud, making false representations to an immigration officer and breach of condition of stay*, and were sentenced to up to 8 months' imprisonment. In addition, the director of the employment agency was convicted in *HKSAR v Wong Erni-Wahyuning* [2020] HKDC 379 of 3 counts of *conspiracy to defraud* and 5 counts of *using a false instrument* and sentenced to 43 months' imprisonment in the District Court.