

(a) To amend the Regulations to prohibit the importation, farming, transport and sale of live quail in Hong Kong

The purpose of the current legislative amendment exercise is to minimize the possibility of avian flu virus similar to the one that caused disease in humans in 1997 recurring. The 1997 virus was a reassortment of the H6 and H9 influenza viruses carried by quail and the H5 virus carried by water birds.

The proposed segregation measures are sufficient to effectively prevent the viruses from mixing and reassorting. We need not and should not adopt more harsh measures to make it impossible for the trade to explore alternative ways of trading quail under the segregation policy.

(b) Whether the Administration has conducted any assessment on the additional operational cost incurred for the trade at all levels after the Regulations have come into effect.

We have assessed the effect the Regulations would have on the trade.

Our assessment is that the number of poultry retail outlets carrying quail would be greatly reduced, but the impact on the overall business volume of these retail outlets will be minimal. As wholesalers would not be able to continue wholesaling of quail at the Cheung Sha Wan Temporary Poultry Wholesale Market and as the number of retail outlets would be greatly reduced, wholesalers may decide not to find alternative premises from which to continue wholesaling of quail.

Due to a much reduced market size for the quail they rear, quail farmers might choose to cease operating their farms.

After the Regulations have taken effect, quail could still be sold and transported in many ways but different to the current mode of operation. As there are many possible ways of operating and many variables in the cost of operation, it is very difficult to quantify the effect on the cost in each case.

(c) To provide a comparison table on the penalties for offences proposed in the three Regulations and those for existing offences in respect of live poultry, together with justifications for the proposed penalties.

A comparison table for penalties is attached as requested.

(d) To consider reducing the licence fee for the Animal Trader Licence after the coming into effect of the Regulation

We are considering the request for Animal Trader Licence fee reduction. We shall revert to Members on the proposed fee reduction as soon as possible.

(e) Legal Notice 218 of 2001; To consider the reference to “the most direct route” in the proposed section 9B, and the reference to “an aircraft” in the proposed new section 9C(b)

After considering views of members, we are prepared to replace “by the most direct route” in section 9B with “direct”. We are also prepared to delete “or aircraft” from section 9C(b).

The Secretary for the Environment and Food will move a motion to this effect at the end of the vetting period of the amendment Regulations.

(f) Legal Notice 219 of 2001: To include only the penalty for the proposed offences but not for other existing offences under the Public Health (Animals and Birds) (Animal Traders) Regulation, and to consider extending the transitional period for existing licence holders under the proposed new section 15 from 30 days to 60 days.

After considering views of Members, we are prepared to include in the current legislative amendment exercise only the offences relating to the amended legislative provisions but not other existing offences under the Public Health (Animals and Birds) (Animal Traders) Regulation. We are also prepared to lengthen the transitional period from 30 days to 60 days. The Secretary for Food and Environment will move a motion to this effect at the end of the negative vetting period of the amendment Regulations.

(1) **Public Health (Animals and Birds)(Amendment) Regulation 2001**

Provisions	Corresponding Level of Penalty	Remarks
<p>Reg. 7B(2A) – regarding segregation of quail entering Hong Kong</p>	<p>Level 4 fine (i.e. \$ 10,001 to \$ 25,000)</p>	<ul style="list-style-type: none"> ● Contravention of Reg. 7B(2A) is comparable to contravention of the current Reg. 7B(2) which provides for segregation of water birds at points of entry into Hong Kong. ● The current penalty for contravention of Reg. 7B(2) is Level 4 fine. Same level of penalty should be adopted for contravention of the new Reg. 7B(2A) to achieve the same deterrent effect and maintain consistency.
<p>Reg. 9B – regarding the taking of imported quail forthwith after being brought into Hong Kong by the most direct route to premises specified in Animal Trader Licences for sale of quail</p>	<p>Level 4 fine (i.e. \$ 10,001 to \$ 25,000)</p>	<ul style="list-style-type: none"> ● Contravention of Reg. 9B is comparable to contravention of the current Reg. 9A(1) under which imported water birds are required to be taken forthwith after being brought into Hong Kong by the most direct route to the Western Wholesale Food Market. ● The current penalty for contravention of Reg. 9A(1) is Level 4 fine. Same level of penalty should be adopted for contravention of the new Reg. 9B to achieve the same deterrent effect and

		maintain consistency.
Reg. 9C – regarding segregation of quail during transportation within Hong Kong	Level 4 fine (i.e. \$ 10,001 to \$ 25,000)	<ul style="list-style-type: none"> ● Contravention of Reg. 9C is comparable to contravention of the current Reg. 9A(1) under which imported water birds are required not to be transported with birds of other kinds. ● The current penalty for contravention of Reg. 9A(1) is Level 4 fine. Same level of penalty should be adopted for contravention of the new Reg. 9C to achieve the same deterrent effect and maintain consistency.

(2) Public Health (Animals and Birds) (Animal Traders) (Amendment) Regulation 2001

Provisions	Corresponding Level of Penalty	Remarks
Reg. 4A – regarding prohibition on possessing quail for sale with other birds	Level 3 fine (i.e. \$ 5,001 to \$ 10,000)	<ul style="list-style-type: none">● There is no similar provision for water birds under the Public Health (Animals and Birds)(Animal Traders) Regulations as Animal Trader Licences are not applicable to water birds.● Current penalties in the Regulations have not been revised for many years and no longer provide a significant deterrent effect. We will propose amendments to these penalties when the principal Ordinance of Cap. 139 is amended in a separate exercise.● Given the public health risk posed by contravention of this provision, it is necessary that the penalty has a sufficient deterrent effect. We propose to pitch the penalty at Level 3 fine which falls within the penalty ceiling prescribed by the principal Ordinance of Cap. 139 at \$ 100,000.

(3) Food Business (Amendment) Regulation 2001

Provisions	Corresponding Level of Penalty	Remarks
<p>Section 30(1A), (1C), (1E) or (1G) — regarding packing and/or sealing requirements for water bird carcasses or offal for sale or delivery</p>	<ul style="list-style-type: none"> ● Level 5 fine (i.e. \$ 25,001 to \$ 50,000) ● Imprisonment of 6 months ● \$ 900 for each day during which it is proved to the satisfaction of the court that the offence has continued 	<ul style="list-style-type: none"> ● Contravention of these provisions is comparable to contravention of section 30(1) under which certain food items are required to be packed in specified ways. ● The current penalty for offence committed under section 30(1) is Level 5 fine, imprisonment of 6 months and \$ 900 for each day during which it is proved to the satisfaction of the court that the offence has continued. Same level of penalty should be adopted for contravention of the new section 30(1A), (1C), (1E) or (1G) to achieve the same deterrent effect and maintain consistency.
<p>Section 30B — regarding restriction on possession for sale of live quail with other live poultry</p>	<ul style="list-style-type: none"> ● Level 5 fine (i.e. \$ 25,001 to \$ 50,000) 	<ul style="list-style-type: none"> ● Contravention of the new section 30B is comparable to contravention of section 30A which imposes restriction on possession for sale of water birds with other live poultry.

	<ul style="list-style-type: none"> ● Imprisonment of 6 months ● \$900 for each day during which it is proved to the satisfaction of the court that the offence has continued 	<ul style="list-style-type: none"> ● The current penalty for offence committed under section 30A is Level 5 fine, imprisonment of 6 months and \$ 900 for each day during which it is proved to the satisfaction of the court that the offence has continued. Same level of penalty should be adopted for contravention of the new section 30B to achieve the same deterrent effect and to maintain consistency.
<p>Section 30C — regarding restriction on opening and tampering with sealed container of water bird offal</p>	<ul style="list-style-type: none"> ● Level 5 fine (i.e. \$ 25,001 to \$ 50,000) ● Imprisonment of 6 months ● \$900 for each day during which it is proved to the satisfaction of the court that the offence 	<ul style="list-style-type: none"> ● Contravention of the new section 30C is comparable to contravention of section 30B which restricts possession of live quail for sale with other live poultry as both are intended to achieve the same objective of preventing different strands of avian flu viruses mixing, reassorting and crossing over to live chickens to minimize the recurrence risk of virus similar to the lethal 1997 H5N1 avian flu virus. ● Same level of penalty for section 30B should also be adopted for contravention of section 30C to achieve the same deterrent effect and to maintain consistency.

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