

立法會
Legislative Council

Ref : CB2/SS/2/05

LC Paper No. CB(2) 1120/05-06(04)

**Subcommittee on
Waste Disposal Ordinance (Amendment of Fourth Schedule)
Notice 2006 and Public Health (Animals and Birds)
(Licensing of Livestock Keeping) (Amendment) Regulation 2006**

Background Brief prepared by the Legislative Council Secretariat

Purpose

This paper summarises the issues and concerns raised by the Panel on Food Safety and Environmental Hygiene relating to the banning of backyard poultry keeping in Hong Kong.

Background

2. Since 2004, there have been increasing incidents of avian influenza outbreaks in poultry in the Mainland, Asia and other parts of the world. Some outbreaks have resulted in human infection. According to reports, many of these outbreaks started in backyard farms where there were little or no effective means to prevent wild birds (which could be infected with avian influenza viruses) from indirect contacts with domestic poultry.

3. The laws in Hong Kong provide exemptions for a person who keeps no more than 20 poultry in or on his premises. Therefore there are households in Hong Kong keeping poultry without licence or authorisation. Unlike licensed farms, there is no biosecurity arrangement or systematic vaccination for poultry to prevent the outbreak of avian influenza. On 1 February 2006, a dead chicken kept by an individual household in Yuen Tuen Shan Village of Sha Tau Kok was tested to be H5N1 positive. Recent surveillance by the Administration also detected H5N1 in different species of wild birds, and this increases the chance of cross infection with live poultry reared at backyard of households.

4. Since 6 February 2006, officers of the Agriculture, Fisheries and Conservation Department (AFCD) have called on backyard farms in 36 villages within a 5 km area of Yuen Tuen Shan Village to appeal to the villagers

to hand in their backyard poultry voluntarily with a view to reducing such backyard poultry keeping activities. Many villagers refused to hand in these poultry and Government had no legislative power to stop such backyard poultry keeping activities.

5. The Panel on Food Safety and Environmental Hygiene had previously urged the Administration to regulate or prohibit backyard poultry farming when discussing measures to prevent recurrence of avian influenza in Hong Kong. The Panel also expressed concern about the risk of spreading avian influenza by wild birds and other types of birds.

The legislative amendments

6. As the public health threat posed by backyard poultry keeping activities has become imminent, the Administration considers it necessary to stop backyard poultry keeping activities immediately. The Administration has decided to adopt the approach of removing the exemption for people keeping not more than 20 poultry presently provided for under the Public Health (Animals and Birds) (Licensing of Livestock Keeping) Regulation (Cap. 139 Sub Leg L) and sections 15, 15A and 15AA of the Waste Disposal Ordinance (Cap. 354). Under the Waste Disposal Ordinance, the term “poultry” means chickens, ducks, geese, pigeons and quails.

7. The Administration gazetted the Waste Disposal Ordinance (Amendment of Fourth Schedule) Notice 2006 and Public Health (Animals and Birds) (Licensing of Livestock Keeping) (Amendment) Regulation 2006 on 8 February 2006. The Notice and the Amendment Regulation came into operation on 13 February 2006.

8. The Notice amends the Fourth Schedule to the Waste Disposal Ordinance by deleting items 7 and 8(b) of the Schedule so that a person who owns or keeps not more than 20 poultry in or on his premises in any livestock waste prohibition area (i.e. urban area), livestock waste control area (i.e. rural area) or livestock waste restriction area (i.e. new towns) is not exempted from the licensing requirement under the Public Health (Animals and Birds) (Licensing of Livestock Keeping) Regulation.

9. The Amendment Regulation amends the Principal Regulation by adding a new section 4(2A) to provide that the Director of Agriculture, Fisheries and Conservation shall not grant licences to those keeping 20 or less poultry in livestock waste control areas.

10. Following the coming into effect of the subsidiary legislation, illegal poultry keeping in livestock waste control areas under the Public Health (Animals and Birds) (Licensing of Livestock Keeping) Regulation will be subject to a fine of \$50,000, while illegal poultry keeping in livestock waste restriction and prohibition areas under the Waste Disposal Ordinance will be subject to a fine of \$100,000.

Discussion by the Panel on Food Safety and Environmental Hygiene

11. When discussing the comprehensive plan to deal with the global problem of avian influenza at special meetings held in 2005, the Panel on Food Safety and Environmental Hygiene had urged the Administration to take urgent action to address the problem posed by backyard poultry farming. The Administration briefed the Panel on the legislative proposal to ban backyard poultry keeping at the special meeting on 7 February 2006.

12. According to the Administration, there are about 1 800 households keeping several thousand poultry which requires disposal either by the household themselves or through voluntary surrender to the relevant authorities. As many such households did not voluntarily surrender their backyard poultry, it is necessary to amend the legislation to ban backyard poultry keeping immediately.

13. Panel members have expressed support for the banning of backyard poultry keeping in Hong Kong in order to reduce the risk of having poultry infected with avian influenza. Some members have raised the following questions relating to the legislative amendments –

- (a) whether it is an offence for a person to sell live chickens at retail market to customers and for a person to carry live chickens back home;
- (b) whether it is an offence for a person to keep a live chicken bought from retail market for some time in his premises before killing it;
- (c) whether a person who has a Livestock Keeping Licence for keeping not more than 20 birds before 1994 in a livestock waste restriction area can continue to have such a licence;
- (d) whether special arrangements will be made for keeping of racing pigeons; and
- (e) whether compensation will be provided to individual households who kept live poultry before the gazettal of the legislative amendments.

14. Some Panel members have urged the Administration to take precaution against the risk of spreading avian influenza by other types of birds. Hon LI Fung-ying considers that the Administration should examine other options instead of banning backyard poultry keeping in Hong Kong.

15. The Administration has provided the following responses to concerns raised by Members –

- (a) after the coming into force of the legislative amendments, provided that a poultry retailer holds a licence issued under the Food Business Regulation or is an “exempt person” under item 2 of the Fourth Schedule to the Waste Disposal Ordinance, he will not commit an offence for selling live poultry at retail market to a consumer;
- (b) whether or not an offence will be committed by a person carrying a live chicken or keeping it at home before killing it will depend on the facts and circumstances of individual cases;
- (c) the term “keep” is defined as including breed, house, tend, look after or control, and “kept” and “keeping” are construed accordingly;
- (d) Livestock Keeping Licence for keeping not more than 20 birds does not exist because the licence have only been issued to farms having over 20 birds for commercial farming purposes. Farms having not more than 20 birds are not regarded as commercial farming practice;
- (e) owners of racing pigeons can apply for a licence for keeping pigeons solely for the purpose of exhibition. The Administration has explained the arrangements to the relevant racing pigeons associations; and
- (f) the Administration will not provide compensation to owners of domestic poultry because backyard poultry keeping is not a kind of economic activity and providing compensation will lead to more illegal poultry importation activities across the border.

16. The Administration has also informed the Panel that it intends to introduce an amendment bill to remove the existing inconsistencies in respect of the enforcement and sanctions against illegal poultry keeping in the Public Health (Animals and Birds) Ordinance and the Waste Disposal Ordinance.

Relevant papers

17. The Administration's papers and other relevant papers for the Panel meeting on 7 February 2006 are available on the Council website at <http://www.legco.gov.hk/english/index.htm>.

Council Business Division 2
Legislative Council Secretariat
15 February 2006