

LEGISLATIVE COUNCIL BRIEF

**Public Health (Animals and Birds)(Exhibition)
(Amendment) Regulation 2006
(Cap. 139F)**

REVISION OF FEE FOR ANIMAL/BIRD EXHIBITION LICENCE

INTRODUCTION

A At the meeting of the Executive Council on 4 July 2006, the Council ADVISED and the Chief Executive ORDERED that the Public Health (Animals and Birds) (Exhibitions) (Amendment) Regulation 2006 (the Amendment Regulation), at Annex A, should be made.

2. The subsidiary legislation will come into operation upon gazettal on 7 July 2006. It will be subject to negative vetting by the Legislative Council.

JUSTIFICATIONS

3. The main aim of the Public Health (Animals and Birds) (Exhibition) Regulations (the Regulations) is to regulate the exhibitions of animals and/or birds so as to protect public safety and to ensure that the animals/birds involved in these exhibitions are being taken care of from animal welfare perspective. Under regulation 3 of the Regulations, no person shall hold an exhibition of animals or birds to which the public are admitted on payment of a fee save under and in accordance with a licence granted or a permit issued under the Regulations. The licence will be granted by the Director of Agriculture, Fisheries and Conservation (DAFC) for a period of 12 months at a fee of \$10,720.

4. On 13 February 2006, regulations to ban backyard poultry keeping came into operation in order to reduce the risk of an avian influenza outbreak among backyard poultry in Hong Kong. As the definition of poultry stipulated in the relevant legislation covers, *inter alia*, pigeons, local pigeon racing

activities would be significantly affected. There are now about 200 local pigeon racing owners and they appealed to the Administration for special consideration. Having regard to overseas experience and our veterinary assessment that the risk of an avian influenza outbreak in pigeons is low, the Administration considers that it would not be inappropriate to continue to allow the keeping of racing pigeons provided that the racing pigeons are being kept in accordance with the necessary biosecurity requirements which may be imposed by DAFC from time to time.

5. To tackle the problem from a public health perspective, we would treat the racing pigeon activity as a form of exhibition such that an exhibition licence could be issued under the existing legislative framework. This would not only enable the existing racing pigeon community to continue to keep their pigeons provided that they satisfy the statutory requirements of the Regulations, it also brings the keeping and exhibition of pigeons under proper biosecurity conditions.

6. Since the keeping and exhibition of racing pigeons is different from traditional keeping and exhibition of animals and birds, e.g. in circus, amusement parks, etc, the resources involved in enforcing the relevant licensing conditions are different. After rearranging the resources required for the two types of animal/bird keeping activities, as well as making reference to the full cost recovery principle, we now propose to change the structure of the fee for a licence issued under the Amendment Regulation as follows -

- (a) if the total number of animals and birds does not exceed 20, the fee shall be \$2,720; and
- (b) if the total number of animals and birds exceeds 20, the fee shall be \$9,700 (as opposed to the original fee of \$10,720 due to a recent review of resource requirements).

THE AMENDMENT LEGISLATION

7. Under section 3 of the Public Health (Animals and Birds) Ordinance, the Chief Executive-in-Council may by regulation provide for the prohibition or regulation of the exhibition of animals or birds for payment of a fee or other money consideration. The Chief Executive-in-Council has exercised his power under the above-mentioned section to amend regulation 4(5) of the Regulations (Annex B) to the effect that the licence fee for a person to hold a permanent exhibition of no more than 20 animals and birds shall be \$2,720 whilst that for a person to hold a permanent exhibition of more than 20

animals and birds shall be \$9,700.

IMPLEMENTATION DETAILS

8. There is a built-in flexibility in the existing Regulations to enable an applicant to choose whether the place of keeping the racing pigeons and the place for exhibiting the pigeons are the same or different. When determining whether a place is suitable for keeping/exhibiting pigeons, DAFC will assess the biosecurity facilities together with other relevant factors, e.g. if animal/bird keeping is allowed in the land base conditions. From the legal perspective, exhibitions of racing pigeons are not “entertainment” within the meaning of the term in Schedule 1 to the Places of Public Entertainment Ordinance, therefore do not require a licence under the Ordinance.

LEGISLATIVE TIMETABLE

9. There is a need to process the applications submitted by the local racing pigeon keepers as soon as possible, and to allow the lower fee levels to take effect as soon as possible so as to benefit the relevant applicants. The Amendment Regulation will take effect from the date of gazettal, following which it will be tabled for negative vetting for approval by the Legislative Council (LegCo).

10. The legislative timetable is as follows -

Publication in the Gazette	7 July 2006
Tabling at LegCo	12 July 2006

IMPLICATIONS OF THE PROPOSAL

11. The Amendment Regulation has no economic, productivity or sustainability implications.

Financial and Civil Service Implications

12. The implications for revenue arising from the proposal are minimal. Separately, the Agriculture, Fisheries and Conservation Department will

redeploy existing resources to regulate compliance of the relevant licensing conditions.

Basic Law Implications and Binding Effect

13. The Department of Justice advises that the proposal is in conformity with the Basic Law, including the provisions concerning human rights. The Amendment Regulation will not affect the current binding effect of the principal Ordinance.

Environmental Implications

14. The proposal will bring the existing pigeon racing activities under our biosecurity regulation and should therefore help bring forth positive environmental implications.

PUBLIC CONSULTATION

15. The proposal was discussed at the meeting of the LegCo Panel on Food Safety and Environmental Hygiene held on 9 May 2006. The Panel was in general support of the proposal, including the proposed approach to let the Amendment Regulation take effect from the date of gazettal. The local racing pigeon owners have also been informed of the fee levels.

PUBLICITY

16. A line-to-take will be prepared and a spokesman will be available to answer media enquiries.

ENQUIRY

17. Enquiries should be directed to Mr Wallace LAU, Principal Assistant Secretary (Food and Environmental Hygiene)¹ (telephone number: 2973 8297) of the Health, Welfare and Food Bureau.

Health, Welfare and Food Bureau
5 July 2006

**PUBLIC HEALTH (ANIMALS AND BIRDS)
(EXHIBITIONS) (AMENDMENT)
REGULATION 2006**

(Made by the Chief Executive in Council under section 3 of the
Public Health (Animals and Birds) Ordinance (Cap. 139))

1. Power of Director to grant licence

Regulation 4(5) of the Public Health (Animals and Birds) (Exhibitions)
Regulations (Cap. 139 sub. leg. F) is repealed and the following substituted –

- “(5) The fee for a licence shall be –
- (a) \$2,720 if the total number of animals or birds to be exhibited (the animals and birds to be counted together where there is a combination of both) does not exceed 20; or
 - (b) \$9,700 if the total number of animals or birds to be exhibited (the animals and birds to be counted together where there is a combination of both) exceeds 20.”.

2. Power of Director to grant permit

The heading of regulation 8 is amended by repealing “**grant**” and substituting “**issue**”.

Clerk to the Executive Council

COUNCIL CHAMBER

2006

Explanatory Note

This Regulation amends the Public Health (Animals and Birds) (Exhibitions) Regulations (Cap. 139 sub. leg. F) –

- (a) to adjust the fee for a licence to hold a permanent exhibition of animals or birds to –
 - (i) \$2,720 if the total number of animals or birds to be exhibited (the animals and birds to be counted together where there is a combination of both) does not exceed 20; or
 - (ii) \$9,700 if the total number of animals or birds to be exhibited (the animals and birds to be counted together where there is a combination of both) exceeds 20; and
- (b) to correct a clerical mistake that appears in a regulation heading.

Annex B

Chapter:	139F	Title:	PUBLIC HEALTH (ANIMALS AND BIRDS)(EXHIBITIONS) REGULATIONS	Gazette Number:	L.N. 525 of 1997
Regulation:	4	Heading:	Power of Director to grant licence	Version Date:	19/12/1997

- (1) Upon application in the form specified by the Director, the Director may grant a licence to any person to hold a permanent exhibition of animals or birds and may renew any such licence.
- (2) A licence shall not be granted or renewed unless-
 - (a) the Director has inspected and approved the place at which the exhibition is to be held; and
 - (b) the Director is satisfied that the primary enclosures, housing facilities and outdoor areas in which the animals or birds are to be kept conform with the standards specified under regulation 5.
- (3) The Director may attach to a licence such conditions as he may think fit.
- (4) A licence shall be valid for a period of 12 months beginning on the date it is granted. (L.N. 411 of 1990)
- (5) **The fee for a licence shall be \$10720. (L.N. 411 of 1990; L.N. 47 of 1995; L.N. 208 of 1996; L.N. 525 of 1997)**
- (6) A licence shall specify-
 - (a) the residential address of the person licensed to hold the exhibition;
 - (b) the address of the place at which the exhibition may be held; and
 - (c) the place at which the animals or birds for the purpose of exhibition may be kept.