

**For discussion
on 19 February 2008**

LegCo Panel on Food Safety and Environmental Hygiene

**Progress Report on the Proposed Amendments to the
Prevention of Cruelty to Animals Ordinance and
the Public Health (Animals & Birds) (Animal Traders) Regulations**

PURPOSE

The Administration has undertaken to conduct a review on the Prevention of Cruelty to Animals Ordinance (Cap. 169) and the related laws in order to better safeguard animal welfare. This paper briefs Members on the progress of the review and outlines the Administration's preliminary proposals.

BACKGROUND

2. The Administration attaches great importance to animal rights and welfare. Over the years, through publicity and education at different levels, cooperation with various social sectors as well as law enforcement, we have sought to build up a culture for protecting and respecting the rights and interests of animals. This culture involves love of animals and respect for their due rights and interests; an understanding and acceptance of the responsibilities of pet ownership; and zero tolerance for acts of cruelty to animals. Through these efforts in the past years, and with the support from various quarters including the Legislative Council (LegCo), animal welfare groups, the pet trade and the general public, our society is placing increasing emphasis on animal welfare, and the level of animal welfare has been steadily enhanced.

3. Apart from efforts in publicity and education, one of our main focuses is to combat animal abuse cases through legislation and enforcement actions. In 2006, with the support of LegCo, we have increased the maximum penalty under the Prevention of Cruelty to Animals Ordinance, from a fine of \$5,000 and 6 months' imprisonment to

a fine of \$200,000 and 3 years' imprisonment. To date, the highest penalty awarded by the Court was \$19,000 and 2 months' imprisonment. Earlier on, the Court has, for the first time, sentenced a man to immediate imprisonment for slaughtering his dogs for food. This demonstrates to our community that slaughtering dogs for food and other acts of cruelty to animals will no longer be lightly pardoned.

4. On 16 January 2008, LegCo held a motion debate on safeguarding animal welfare during which Members raised a number of proposals to better promote animal welfare. As the Secretary for Food and Health indicated during the debate, the position and aspiration of Members and the Administration on animal welfare are the same. We would like to further enhance the awareness of the community to protecting animal welfare and will do the best we can through education, publicity, legislation and enforcement to achieve this goal. At the debate, Members unanimously called on the Administration to better control the sale and breeding of animals to protect pet owners and safeguard animal rights. We are studying Members' various comments and proposals carefully.

5. The Agriculture, Fisheries and Conservation Department (AFCD) has formed a consultative group last year with representatives from the pet trade, kennel club and animal welfare groups to study how the Prevention of Cruelty to Animals Ordinance and the related laws could be improved to better safeguard animal welfare. With the support of the consultative group, the Administration has now drawn up some preliminary legislative proposals and will continue the consultation with animal welfare groups and representatives from the pet trade.

PROPOSALS

A. Proposals to enhance regulation on the pet trade

6. The pet trade has expanded considerably over the past years and most dealers now sell animals soon after they are weaned. Unfortunately, there are some unscrupulous breeders in the trade having little regard for the welfare and health of their animals. Many ignore the statutory requirement of licensing for animal traders by claiming that they are only private individuals selling their own pets or offspring of their pets. These unlicensed "traders" may also sell sick and unhealthy animals to unsuspecting members of the public, some of whom end up paying hefty veterinary bills as a result. In order to better safeguard

animal welfare and prevent the spread of infectious diseases in animals, we propose to amend the Public Health (Animals and Birds) (Animal Traders) Regulations (Cap. 139B) and revise the licensing conditions for pet shops to enhance the regulation on animal trading activities.

(i) Increase the maximum penalty for illegal trading

7. Regulation 4 of the Public Health (Animals and Birds) (Animal Traders) Regulations stipulates that a person shall not carry on business as an animal trader otherwise than under a licence issued by the Director of Agriculture, Fisheries and Conservation (DAFC). The existing maximum penalty for illegal trading of animals is \$2,000 and for breach of licensing conditions \$1,000, and may not act as sufficient deterrent nowadays. We propose to increase the penalty for the former to \$100,000 and the latter to \$50,000.

(ii) Power to revoke licence

8. At present, DAFC has no power to revoke the licence of an animal trader even if the latter has committed various animal welfare related offences. We propose to rectify this by giving DAFC such a power.

(iii) Prohibit the sale of sick animals / birds

9. The current regulation does not regulate the health status of animals or birds sold by pet traders. We propose to include the prohibition of selling animals or birds with infectious disease to public. After the amendment, it will be an offence for an animal trader to sell sick animals or birds with infectious disease.

(iv) Revise licensing conditions to require animal traders to source animals from legitimate sources

10. In order to safeguard the health status of dogs sold at pet shops, it is important to first control the source of the dogs supplied to such shops. In October 2007, AFCD consulted the trade on the proposal to amend the licensing condition for pet shops by restricting their source of dog supply to only a few origins, such as dogs legally imported into Hong Kong; dogs bred locally by commercial traders and dogs from other pet shops etc. In the consultation process with the trade, some representatives expressed concern over the possibility of shortage in dog supply as a result of such amendment. AFCD is now conducting further

consultation with the trade on this aspect. We hope to implement the new licensing condition by mid-2008. After the new licensing condition has been implemented in the dog trade, AFCD will consider extending it to other animal trade, depending on the practicality involved for different species of animals.

B. Proposals to further promote animal welfare

11. During the legislative review, we note that some provisions in the Prevention of Cruelty to Animals Ordinance can be improved to better protect the interest of the animals concerned. We also note that the existing legislation does not prohibit repeated offenders of animal abuse cases from keeping animals. In this regard, we propose the following amendments with a view to further safeguarding animal welfare.

(i) Early release or disposal of seized animals

12. At present, animals seized in relation to a cruelty case are required by law to be detained by the Government until the court trial has been completed. As some animals are not suitable for keeping under captivity, it may be more appropriate to release them earlier based on welfare ground. To address this, we propose that Senior Veterinary Officer¹ should be given the power to release any live animal seized or otherwise dealt with under the Ordinance for which it is impractical to keep in captivity.

(ii) Provide option for animals put under temporary care by the Government

13. Under certain circumstances, the Court may order animals involved in a cruelty case to be kept under temporary care by the Government. However, the Ordinance also provided absolute power to the offender in requesting the destruction of such animals under temporary care if he / she is the owner of the animals concerned. We propose to replace this power to request destruction of such animals by the offender with the right to surrender such animals to the Government.

¹ A "senior veterinary officer" is defined in the legislation as any veterinary officer authorised by DAFC to perform the duties of a senior veterinary officer under the Ordinance. They are normally the Senior Veterinary Officers in AFCD.

(iii) Senior Veterinary Officer to issue directions

14. To prevent abuse and to ensure immediate action is taken to alleviate animals from stress and in the light of suggestions from animal welfare groups, we are considering a proposal to empower a Senior Veterinary Officer to issue directions to the owner or keeper of animals to require certain measures to be taken in order to safeguard the animals' welfare. Examples include requiring owners to provide adequate food and water for their animals and requiring owners to secure appropriate veterinary treatment for their animals within a specified period.

(iv) Power of a Magistrate to prohibit further keeping of animals

15. At present there is no legal impediment to the keeping of animals by repeated offenders against animal welfare. In some incidences, the Court may consider it inappropriate for persons convicted of offences related to animal abuse to continue to keep animals. In order to prevent the recurrence of similar offences, we propose to empower a Magistrate to order the forfeiture of an animal and/or disqualify a person who has been found guilty of any offence related to animal abuse from keeping all or specified kinds of animals for a specified period of time.

OTHER WORK TO SAFEGUARD ANIMAL WELFARE

16. Paragraphs 6 to 15 above set out our preliminary legislative proposals to further promote animal welfare. Apart from legislation, the Government will continue to make use of publicity, education and enforcement actions to safeguard animal welfare. Some of the recent key initiatives are highlighted below.

A. Control Measures at Border Control Points

17. AFCD maintains a close working relationship with the Customs & Excise Department (C&ED) and the Police in combating smuggling activities. Joint operations are being carried out with C&ED at various border control points regularly to detect smuggling of animals and birds, including those for pet trade.

18. Officers of C&ED based at various control points and seaports would regularly check on incoming passengers, vehicles and vessels. Any cases of illegal import of live animals and birds detected would be referred and handed over to AFCD for follow up investigation

and prosecution if applicable.

19. AFCD has been actively launching various publicity works on anti-smuggling of animals and birds in the airport, public cargo working areas and border control points. Leaflets and other promotional materials containing warning messages about the offences associated with illegal import of animals and birds are distributed to travellers, stakeholders and parties concerned, with particular efforts at the border control points.

20. In order to strengthen the detection of smuggled animals and birds, AFCD will implement a pioneer quarantine detector dog programme in February 2008. Quarantine detector dogs will be deployed to carry out screening duties for the detection of smuggled animals and birds at various border control points and seaports where appropriate.

B. Publicity and Education

21. In order to arouse public awareness on animal welfare and to promote responsible pet ownership, AFCD has launched a series of publicity programme, which includes production of various Announcements of Public Interest (API) on animal welfare, animal cruelty and rabies prevention; distribution of the APIs to all local schools; broadcasting of APIs on public transportation and in other public places; advertising on various types of public transportation vehicles and stations; as well as the distribution of posters and pamphlets to public. A new API on animal cruelty is under production. Exhibitions to promote animal welfare and further advertisement in cross harbor tunnel are also being arranged.

WAY FORWARD

22. The proposed legislative amendments would serve to strengthen our existing legislation to protect animal welfare. We are consulting the animal welfare groups and representatives from the pet trade on the proposals and are at the same time carefully examining the feasibility and the legal implications of the various proposals (e.g. whether the proposal to prohibit repeated offenders of animal laws from keeping animals would have human rights implications). We would present the finalised legislative proposals to the Panel in due course.

ADVICE SOUGHT

23. Members are invited to comment on the legislative proposals set out in paragraphs 6 to 15 above and note the on-going measures being implemented by AFCD in paragraphs 17 to 21 above to promote animal welfare.

Food and Health Bureau
Agriculture, Fisheries and Conservation Department
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