

立法會 CB(2)1598/07-08(01)號文件  
LC Paper No. CB(2)1598/07-08(01)



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**BY POST & BY FAX**

**To: Panel on Food Safety & Environmental Hygiene**

**Legislative Council Secretariat**

**Legislative Council Building**

**8 Jackson Road**

**Central**

**Hong Kong**

**Attn: Chairman - Hon Tommy Cheung Yu-yan, SBS, JP**

**Deputy**

**Chairman - Hon Fred Li Wah - ming, JP**

**Members - Hon Wong Yung-kan, SBS, JP**

**- Hon Andrew Cheng Kar-foo**

**- Hon Tam Yiu-chung, GBS, JP**

**- Hon Vincent Fang Kang, JP**

**- Hon Wong Kwok-hing, MH**

**- Dr. Hon Joseph Lee Kok-long, JP**

**- Hon Alan Leong Kah-kit, SC**

**- Dr. Hon Kwok Ka-ki**

**c.c - Hon Mrs. Selina Chow Liang Shuk-ye, GBS, JP**

**- Director of Agriculture, Fisheries and**

**Conservation Department and, or whom it may concern**



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Dear Sirs,

**Re: Proposed Amendments to the Public Health (Animals & Birds) (Animal Traders) Regulations**

We, Hong Kong Pet Breeders Association Limited, are a non-profit making organization formed by a group of dog breeders and are writing in response to the proposed amendments to the Public Health (Animals & Birds) (Animal Traders) Regulations. We respectfully and urgently request the Legislative Council Secretariat to include the captioned matter for discussion in the forthcoming meeting of the Legislative Council and allow us to attend the said meeting to express our concern and views.

**Background**

1. Dog breeding industry has been in place in Hong Kong for over 20 years and all along the industry players are not aware of any specific regulatory control over dog breeders.
2. At present, there is no specific licence for pet breeders in Hong Kong. However, according to regulations 4 and 5 of the Public Health (Animal and Birds) (Animal Traders) Regulations, pet breeders who run pet breeding farms fall within the definition of "animal traders" and are required to obtain an Animal Traders Licence.
3. Notwithstanding the Agriculture, Fisheries and Conservation Department ("AFC Department") has acquiesced to the existence of dog breeders as its staff have been visiting dog breeders in every three years in the past years for injecting Rabies Vaccine and issuing dog licenses. However, the AFC Department has not ever taken any action in informing dog breeders to apply for the appropriate license. Dog breeders all along have a legitimate expectation that they are not subject to license control, in particular, Animal Traders License as we have inquired with the AFC Department several years ago about obtaining a breeding license but the AFC Department replied that there was no regulation so far requiring a breeder to obtain a license. Only until recently it has come to our attention that the Government would impose regulatory control over pet breeding industry in Hong Kong by amending the Public Health



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(Animals & Birds) (Animals Traders) Regulations and imposing the Animal Traders Licence regulations over us.

#### Difference between Dog Breeders and Pet Shops

4. Whilst dog breeders recognize and welcome the need of the Government to safeguard animal welfare and public health by regulating and tightening the control on the pet trade, dog breeders would like the Government to acknowledge the inadequacy of the existing licensing policy of Animal Traders License, to correctly differentiate the functions and operations between dog breeders and pet shops and to formulate proper and appropriate licensing regulations against appropriate licensees.
5. Dog breeders are strictly speaking producers of the primary industry and could not be in any way regarded as dog traders. They are primarily responsible for breeding dogs and supplying dogs to pet shops. Pet shops, on the other hand, are retailers and sellers of the secondary industry and are usually and commercially regarded as dog traders.
6. The basic requirements to be qualified as dog breeders and pet shops are fundamentally different. Take the premises and location of farms as examples. The premises required for dog breeders and pet shops are of substantially different size. Dog breeders require extensive area for breeding and raising dogs whilst pet shops only need a relatively small premises in their operations. In respect of the locations of the premises, dog breeders tend to occupy places in the rural areas whilst pet shops can still be located in urban areas. Thus, the Government can hardly formulate and apply the same set of rules against dog breeders and pet shops.

#### Inadequacy and Inapplicability of Existing Regulatory Policy

7. Insofar as we understand from the AFC Department, in order to obtain Animal Traders License, dog breeders must conduct their business on land with commercial land use. Pausing here for a moment to look into the rationality of this requirement, would it be rational for the Government to require a pig farm of grazing industry be conducted on a piece of land with commercial land use. To take the matter further, would it be rational for the Government to



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Pet Breeders  
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require dog breeders to conduct their business on land with commercial land use whilst most of such lands are situated in urban area instead of rural area. We believe the Government should be rational enough not to require a dog breeder to breed their dogs in business center or industrial building whilst most of dog breeders, if not all, are having their business established in agricultural land in the New Territories. Therefore, the commercial land use requirement would make the existing dog breeders' business in Hong Kong impracticable, if not impossible at all, and create unnecessary impediment to the business of dog breeders.

8. The relevant consideration for the Government to take into account is the business process of dog breeding. In this regard, please refer to the attached flow chart showing the process. Having considered the process, one would definitely predicate that dog breeding business is a species of grazing and that dog breeding business is only suitable to be carried on in agricultural land.
9. It has also come to the attention of the industry players of dog breeding that the licensing requirement is extremely harsh and impracticable which amounts to a complete elimination or extinguishment of dog breeding industry in Hong Kong. The proposed amendment to the relevant legislation and the proposed imposition of license conditions are originated from "Statute Law (Miscellaneous Provisions) Bill 2008. The justification to this Bill is to achieve certainty. We quote here the relevant paragraph in the Legislative Counsel Brief for this Bill: - "Under certain statutory provisions, failure to perform an act "to the satisfaction of" an enforcement authority constitute a criminal offence. The court of First Instance held that the drafting formula was too vague to enable a person to ascertain the elements of the offence under the provisions concerned. The proposed amendment will add a requirement that no offence is committed unless the authority has specified to the affected person the measures to be taken to its 'satisfaction' or the person has commenced the regulated activity 'without writing to the Authority to ascertain, and ascertaining from the Authority, as to how the Authority is to be satisfied'". Whilst we do appreciate the intention of the Government and the justification of such proposed amendment, we strongly oppose to the draconian approach taken by the Government in imposing too harsh and impracticable licensing requirements and conditions which are totally impropportionate to the justification to and reasoning behind such



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proposed amendment.

**Example in Reality as Illustration**

10. To illustrate the above, we would like to cite a real case for your consideration and attention. One of the reputable dog breeders has applied for Animal Traders License last year. The process for vetting the application took 9 months. Such application was eventually rejected by the AFC Department and the reasoning thereof is that the place and the facilities for running the dog breeding business of this applicant is too primitive and simple. Save and except such remark, no further and concrete instructions has been given by AFC Department that "an officer of this department will visit the premises and make a preliminary assessment of the suitability of the premises for the type of license to be applied for. The applicant will be advised of the requirements for bringing the premises up to the requisite standard. He will be further advised of the requirements in writing". Had proper and constructive guidance and advice been given to that dog breeder, he would have been able to modify the premises to meet the requisite standard and his application would not have been refused.
11. On 12th February 2008, a meeting has been held between the AFC Department and several dog breeders who wished to voice out their concerns to the AFC Department. As this meeting, we came to know that the relevant legislation will be amended to the effect that all dogs sold in Hong Kong must accompanied with a certificate of origin and that the penalty for unlawful sale and purchase of animal would be increased from HK\$2,000.00 to HK\$100,000.00 and imprisonment for 3 months. The AFC Department alleged that the meeting mentioned herein was a consultation meeting. This allegation is against the fact. The fact was that the dog breeders attending this meeting have voiced out their concerns, rendered their views and comments and given suggestions to the way to regulate the dog breeding business. However, no matter how hard our dog breeders were trying to convey our message, our concerns, views, comments and suggestions are ignored, neglected or rejected. We just simply have no channels to furnish our concerns on the proposed amendments to the relevant legislation and we as the industry players of pet breeding deserve an opportunity to be heard of our concerns.

**Impact of the Proposed Amendments on the Pet Breeders' Industry**



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12. Dog breeders breed dogs and sell them to the pet shops in Hong Kong. If they cannot meet the harsh licensing requirements in the proposed amendments of the relevant legislation, they cannot legally carry on with their breeding business, not to mention their impact on the source of supply locally.
13. If there is no production by Hong Kong dog breeders and the source of dog supply is restricted to only a few origins of importation, there would be a definite lack of local supply to the pet shops resulting in a sudden increase of the retail price. More importantly, illegal pet breeding will then become prevalent leading to an influx of illegal trading of dogs.
14. There are at present more than [100] dog breeders in Hong Kong. Where the licensing requirements are unreasonable, inapplicable and impracticable to dog breeders, dog breeders will be forced to close down their farms and thousands of dogs which are used for breeding offspring will become homeless. The staff of these dog breeders' farms will also become jobless.
15. To illustrate the immense impact on the Pet Breeders' industry, may we take this opportunity to enclose herewith a diagram showing the chain of pet dog sale business and you would appreciate that once the dog breeders business being the starting and locomotion of the whole chain is being expelled from Hong Kong the consequence would be disastrous.

### **Suggestions and Proposals**

16. Prior to the passing of the proposed amendments to the Public Health (Animals & Birds) (Animals Traders) Regulations, we do urge the Legislative Council to take into account our following suggestions:
  - a. Differentiate the pet breeders and pet shops and formulate different criteria in regulating and exercising control over them;
  - b. Formulate a specific license for pet breeders and establish a set of explicit, appropriate, practical and reasonable licensing regulations against pet breeders;



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c. Provide clear advice, guidelines and guidance to the pet breeders in obtaining the necessary license. And allow a transitional period to the existing pet breeders and affected parties to prepare for and comply with the new requirement.

17. We do hope that the Government would care to look into the reality and current situation of dog breeding business in Hong Kong and take a practical and viable approach in regulating this business instead of bureaucratizing the licensing process of dog breeders.

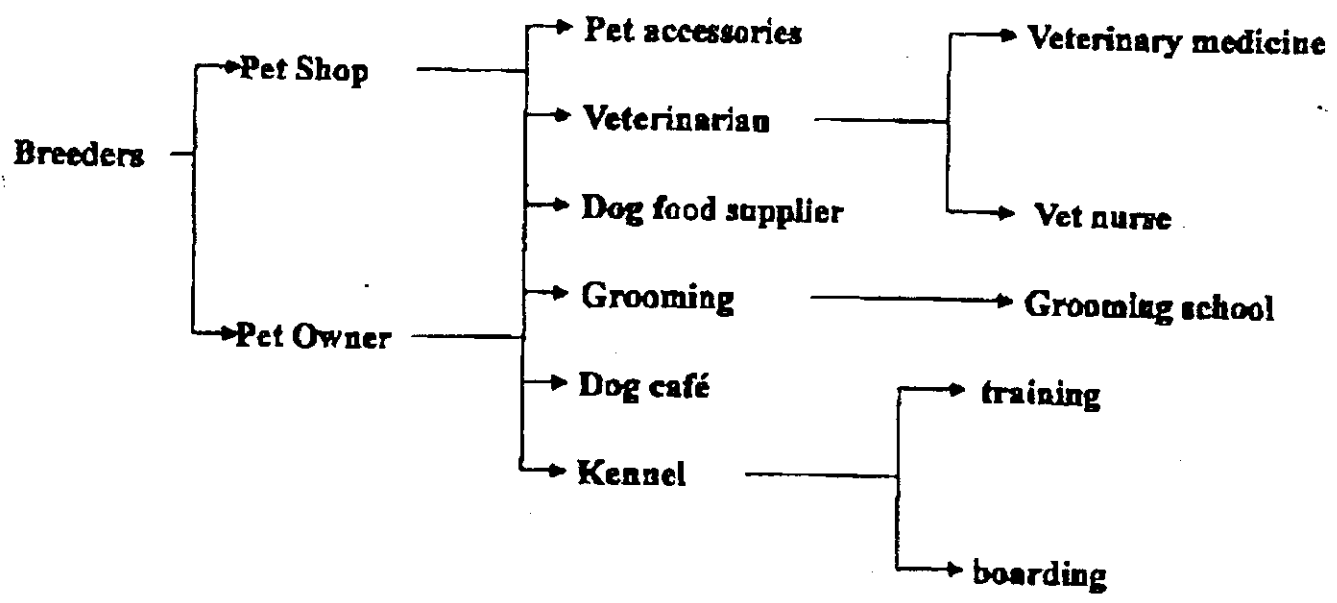
Lastly, we reiterate and urge the Legislative Council Secretariat to include the captioned matter in the agenda for discussion in the forthcoming meeting of the Legislative Council and allow us to attend the discussion of the proposed amendments to the relevant legislation so that we can have the opportunity to express our views and concern. Our representative, Sian, Wei Yee-shan, can be contacted at . We look forward to hearing from you.

Yours faithfully,

Sian, Wei Yee-shan  
Organizing committee, Chairman  
Hong Kong Pet Breeders Association Limited

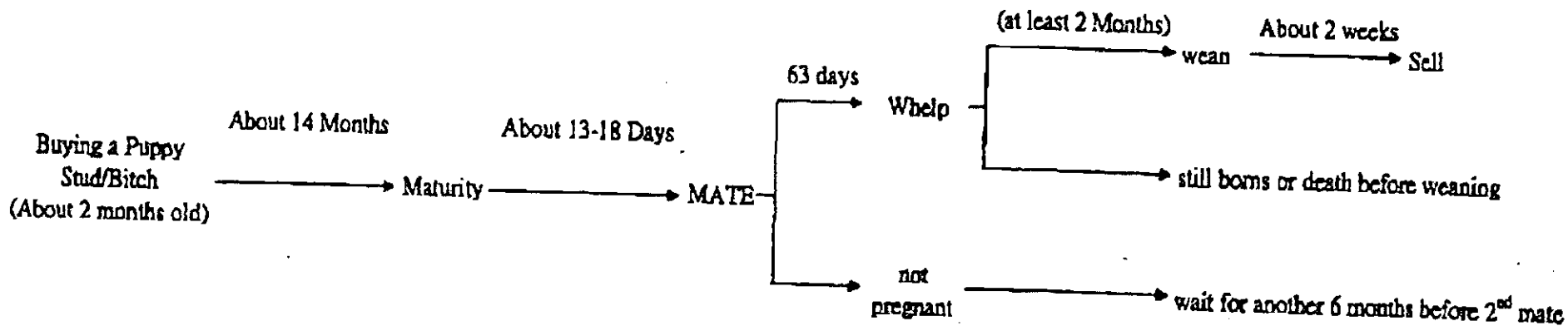
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# Influence Chart





# Breeding Time Chart



From puppy stud / bitch to selling pups takes about 18 months.  
Sometimes if the bitch is not pregnant, another 6 months to wait before 2<sup>nd</sup> mating