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Panel on Food Safety and Environmental Hygiene

**Updated background brief prepared by the Legislative Council Secretariat
for the meeting on 14 February 2012**

Proposals to amend Schedule 2 to the Veterinary Surgeons Registration Ordinance (Cap. 529)

Purpose

This paper provides background information and summarizes the past discussion by the Panel on Food Safety and Environmental Hygiene ("the Panel") on the Administration's proposals to amend Schedule 2 to the Veterinary Surgeons Registration Ordinance (Cap. 529) ("VSRO").

Background

2. Enacted in 1997, VSRO provides for the regulation of the practice of veterinary surgery, the registration of veterinary surgeons, the disciplinary control of the professional activities of registered veterinary surgeons and for matters related to such registration and disciplinary control. VSRO also provides for the establishment of an independent Veterinary Surgeons Board of Hong Kong ("VSB"), which is responsible for discharging the functions stipulated in VSRO, including but not limited to establishing and maintaining a register of registered veterinary surgeons, setting and reviewing the qualification standards for registration as a registered veterinary surgeon and related registration matters, as well as advising the Government on registration matters.

Schedule 2 to VSRO

3. Under section 16(1) of VSRO, no person shall practise veterinary surgery¹ or provide a veterinary service² in Hong Kong unless he or she is a veterinary surgeon registered with VSB and the holder of a practising certificate which is currently in force. Any person who contravenes this provision commits an offence and is liable on conviction to a fine at level six and imprisonment for one year as stipulated under section 25(1)(h) of VSRO.

4. Notwithstanding the above, section 29 of VSRO provides that the persons listed in Schedule 2 to the Ordinance are exempted from the provisions of VSRO in the circumstances specified in that Schedule. This means that, in the specified circumstances, the persons listed in Schedule 2 are not subject to the prohibition in section 16(1) when they are performing acts which fall within the meaning of "veterinary surgery" or providing services which fall within the meaning of "veterinary service" under VSRO. The exemptions in Schedule 2 include the following -

- (a) a medical practitioner or a dentist carrying out any treatment, test or surgery on an animal provided it is done at the request of a registered veterinary surgeon;
- (b) a medical practitioner who performs surgery on an animal for the purpose of removing an organ or tissue for use in the treatment of human beings;
- (c) a person who treats an animal by physiotherapy provided the treatment is carried out under the direction of a registered veterinary surgeon;
- (d) the owner (or his / her employee or a member of his / her household) when treating his / her own animal, provided such treatment does not include making a surgical incision into the abdominal or thoracic cavity;

¹ "Veterinary surgery" means "the art and science of veterinary surgery and medicine and, without limiting the foregoing, includes -

- (a) the diagnosis of disease in, and injuries to, animals including tests performed for diagnostic purposes;
- (b) the giving of advice based on such diagnosis;
- (c) the medical or surgical treatment of animals including the performance of surgical operations thereon".

² "Veterinary service" means "doing or performing any act or attending to any matter the doing or performing of which or the attending to which forms part of the generally accepted practice of veterinary surgery".

- (e) a licensee under the Animals (Control of Experiments) Ordinance (Cap. 340) when performing an experiment in accordance with the provisions of that Ordinance;
- (f) a person who is employed or retained by the Government for performing vaccinations on animals, while performing such vaccinations; and
- (g) a person who administers first aid to an animal for the purpose of saving its life or relieving pain, provided such treatment does not include making a surgical incision into the abdominal or thoracic cavity.

5. No legislative amendments to Schedule 2 to VSRO have been introduced since its first enactment in 1997. By virtue of section 29(2) of VSRO, the Secretary for Food and Health may, by order, amend Schedule 2.

Public consultation on proposals to amend VSRO

6. In response to the veterinary community's call for reviewing existing restrictions imposed on both lay staff working in veterinary clinics and veterinary students, VSB had formed a working group to study the proposal to expand Schedule 2 to VSRO. With advice and input from VSB, the Administration has reviewed the existing regulatory regime in Hong Kong and the relevant legislative provisions. According to the Administration, it has made reference to the legislation and practices of other jurisdictions, where appropriate, to ensure that any improvements made to the regulatory control system in Hong Kong are in line with international standards.

7. As a result of the review, the Administration has identified several areas where Schedule 2 to VSRO can be improved. On 8 September 2011, the Administration launched a public consultation on the proposals to amend Schedule 2 to VSRO lasting about two months until 31 October 2011. The proposals are made with a view to -

- (a) permitting veterinary assistants, veterinary students, and other individuals to perform certain acts of veterinary surgery and provide certain veterinary services under the direction and/or supervision of a registered veterinary surgeon; and
- (b) limiting the veterinary acts which may be performed by animal owners to certain minor acts.

8. According to the Administration, three public consultation forums and three consultation meetings with farmers were held during the consultation period. Comments were also invited on the proposals as set out in the consultation document from the relevant stakeholders, which included all registered veterinary surgeons in Hong Kong, the Hong Kong Veterinary Association, the China (Hong Kong) Veterinary Association, universities running animal related courses, licensed livestock farmers, animal welfare organizations, kennel clubs, licensed pet traders, government departments with dog units, and other related organizations such as the Consumer Council. The Administration will study the views and comments received before finalizing the legislative proposals.

Deliberations of the Panel

9. At the meeting on 8 November 2011, the Administration briefed the Panel on its proposals to amend Schedule 2 to VSRO and the initial feedback of the public consultation.

10. Noting the Administration's advice that overwhelming support, especially from the veterinary community, had been received on the proposal to permit individuals (such as veterinary assistants and veterinary students) to perform certain veterinary acts, members expressed grave concern about the potential implication of such proposal on animal welfare, given that veterinary assistants were of mixed standards and some complicated and difficult surgical procedures were required to be undertaken by a veterinary surgeon in other jurisdictions.

11. The Administration advised members that it would discuss with VSB the revision of the Code of Practice for Guidance of Registered Veterinary Surgeons ("CoP"). It was proposed to stipulate in CoP that -

- (a) veterinary surgeons must shoulder the ultimate responsibility for veterinary acts carried out under their direction and supervision; and
- (b) prior consent should be obtained from the pet owner if the relevant veterinary task would be undertaken by a veterinary assistant or veterinary student.

12. The Administration also pointed out that the regulatory regime for veterinary acts varied from country to country. In considering the Administration's proposals, VSB had come up with the kinds of procedures that could be performed by a veterinary assistant or veterinary student on a veterinary surgeon's approval. The Administration explained that its proposals required lay staff to work under three levels of supervision (i.e. direction/supervision/direct and continuous supervision) of a registered veterinary surgeon. The veterinary surgeon had to ensure that his/her assistant was fully capable of carrying out a particular task under his/her direction or supervision.

13. Concern was raised that veterinary surgeons might no longer allow veterinary students to practise at their clinics when considering the possible liability to be imposed on them for the wrongful acts of their supporting staff. The Panel was advised that the veterinary surgeons who had given views during the consultation period supported that they should take responsibility for veterinary acts performed by their supporting staff, and it was also a standard practice overseas that the liability for negligence rested with the directing veterinary surgeon.

14. Noting that some pig farmers had suggested that they should be allowed to personally perform castration of piglets at 14 days of age or less, the Panel was concerned that the Administration's proposed amendments to VSRO might have adverse impact on the business environment of pig farming. According to the Administration, the comments received during the consultation period indicated that what concerned livestock farmers most was not the issue of operating costs, but the performance of some of the proposed husbandry procedures, such as the castration of pigs at seven days of age or less. Chicken farmers accepted the proposed time to trim the beak of poultry at 10 days of age or less while pig farmers suggested that they should be allowed to perform castration of piglets at 14 days of age or less, instead of the seven days being proposed. The Administration was open-minded about the stakeholders' feedback, and would fine-tune its proposals in response to their suggestions.

15. Members urged the Administration to consider extending the time to castrate a pig to 14 days of its age or less. Members were of the view that more flexibility should be allowed in implementing the proposals so as not to bring significant changes to the existing practices of livestock farming.

Relevant papers

16. A list of the relevant papers available on the Legislative Council website is in the **Appendix**.

Council Business Division 2
Legislative Council Secretariat
8 February 2012

**Relevant papers on the Veterinary Surgeons
Registration Ordinance (Cap. 529)**

Meeting	Date of meeting	Paper
Panel on Food Safety and Environmental Hygiene	8.11.2011 (Item V)	Agenda Minutes CB(2)206/11-12(05) CB(2)206/11-12(06)

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