

LEGISLATIVE COUNCIL BRIEF

Public Health (Animals and Birds) Ordinance (Chapter 139)
Interpretation and General Clauses Ordinance (Chapter 1)

**Public Health (Animals and Birds)(Animal Traders)
(Amendment) Regulation 2016
Specification of Public Offices (Amendment) Notice 2016**

INTRODUCTION

At the meeting of the Executive Council on 10 May 2016, the Council ADVISED and the Chief Executive ORDERED that the Public Health (Animals and Birds) (Animal Traders) (Amendment) Regulation 2016 (“the Amendment Regulation”), at **Annex A**, should be made under section 3 of the Public Health (Animals and Birds) Ordinance (Cap. 139), and the Specification of Public Offices (Amendment) Notice 2016 (“the Amendment Notice”), at **Annex B**, should be made under section 43 of the Interpretation and General Clauses Ordinance (Cap. 1).

JUSTIFICATIONS

The current regulatory regime

2. Regulation 4(1)(a) of the Public Health (Animals and Birds) (Animal Traders) Regulations (Cap. 139 sub. leg. B)(“principal Regulations”) provides that a person must not carry on business as an animal trader unless with a licence (i.e. an Animal Trader Licence (“ATL”)) granted by the Director of Agriculture, Fisheries and Conservation (“DAFC”). Contravention of this provision is an offence under regulation 13(1) and the offender is liable on conviction to a fine at level 1 (i.e. \$2,000). DAFC is empowered to attach conditions to a licence, and pursuant to regulation 13(2), a contravention of such conditions may render the offender liable on conviction to a fine of \$1,000. A person who sells his own pet (or the pet’s offspring), however, is excluded from the definition of “animal trader”. The person is hence not required to obtain an ATL.

3. The current exclusion of pets and pets' offspring from the control of the licensing scheme has been exploited by some unscrupulous traders who operate under the guise of a private pet owner, thereby circumventing the relevant regulatory control and leading to public health and animal welfare concerns. Empirical data show that dogs are by far the most vulnerable pet group prone to such a problem. They comprise the largest share of the pet market. Past investigation and conviction records also show that the welfare of dogs that are kept for breeding purposes has been compromised more frequently and to a greater extent than other types of animals. We see a strong case to strengthen the regulation for trading of dogs, including putting the sale of one's own pet dogs and the breeding for sale of dogs under licensing control¹.

4. We have also identified a number of inadequacies in the current regulatory regime. The current penalty levels are considered too low to have sufficient deterrence. Besides, DAFC is not explicitly empowered to refuse to grant or renew a licence on grounds that the applicant has been convicted of an offence under the Prevention of Cruelty to Animals Ordinance (Cap. 169), or that the licensee has a record of repeated breaches of the licence conditions. For better protection of animal welfare, we see room for further improvement in these areas to enhance regulatory control.

Proposals

(A) Enhancing regulation of sale, and keeping for breeding and sale, of dogs

5. We propose to strengthen regulation of the sale, and keeping for breeding and sale, of dogs by introducing two new types of licence and also a type of one-off permit, in addition to the existing ATL, such that any person who sells, or offers to sell, dogs must obtain a licence or a permit, whereas any person who keeps for breeding and sells, or offers to sell, dogs, must obtain a licence. Depending on circumstances, either a permit or a licence is required. This is irrespective of the number of dogs involved, and whether the dog involved is the person's own pet dog or the offspring of the person's pet dog². The revised regulatory regime will be as follows:

¹ As a first step, we would put the sale, and keeping for breeding and sale, of dogs under strengthened control. We would keep in view the effectiveness of the new regulatory regime and assess the need to extend the coverage of the regulation to cats and/or other pet animals.

² Owners who sell other types of animals or birds which they keep as pets will continue to be excluded from the definition of "animal trader" and hence are not subject to any licensing or permit requirement for selling the animal/bird concerned.

- (a) **ATL**, the type of licence which is currently in place, for any person who sells, or offers to sell, dogs and/or other animals or birds at one premises, but does not keep dogs for breeding, as an animal trader;
- (b) **Dog Breeder Licence Category A (“DBLA”)** for any individual who keeps four or fewer female dogs for breeding purposes at one premises, and sells, or offers to sell, those breeding dams or their offspring;
- (c) **Dog Breeder Licence Category B (“DBLB”)** for any person who keeps a number of female dogs for breeding purposes up to the limit provided for in the licence at one premises, and sells, or offers to sell, those breeding dams, their offspring or dogs from other approved sources; and
- (d) **One-off Permit** for any dog owner who sells, or offers to sell, a dog that the dog owner keeps as the licensed keeper of that dog.

6. Under the revised regulatory regime, while the regulatory control on animal trading activities is largely the same as at present, activities involving the breeding and selling of dogs will be subject to more stringent control. In this regard, no person is permitted to sell any dogs except under an ATL, a DBLA, a DBLB or a one-off permit. An ATL is required for an animal trader to sell dogs without engaging in any dog breeding activities. A dog breeder who wants to keep any dogs for breeding and sell the dog or the dog’s offspring is required to obtain a DBLA or DBLB. Each DBLA or DBLB is tied to one specific premises, as in the case for the existing ATL. The licensed premises will be subject to regular inspections by authorised officers of Agriculture, Fisheries and Conservation Department (AFCD) to ensure compliance with the relevant licensing requirements and any conditions attached to the licence. A person without a licence may not sell the person’s pet dog or its offspring except with a one-off permit.

DBLA

7. The differentiation between the DBLA and DBLB is primarily based on the number of female dogs kept for breeding purposes by the licensee. The DBLA is designed for persons who breed a relatively smaller number of dogs. They are sometimes referred to as “hobby-breeders” or “home-breeders” who keep their dogs as pets and live with them in a household. The DBLA holders are individuals who will be subject to less stringent accommodation requirements than those who breed a relatively larger number of dogs (i.e. the “commercial breeders”), although they are expected to observe the majority of the licensing

conditions applicable to DBLB holders. A DBLA holder is only permitted to sell, and offer to sell, the DBLA holder's breeding dams and their offspring, whereas a DBLB holder may sell other dogs obtained from other approved sources in addition to the DBLB holder's breeding dams and their offspring.

8. As an additional safeguard and to ensure that the health and welfare of the dogs kept for breeding can be duly taken care of, we will require that any individual may only hold one DBLA at any one time. Indeed, the dogs are expected to be kept by the DBLA holder as the DBLA holder's own pets and it is inconceivable that sufficient personal care can be given to the dogs if the DBLA holder is going to breed dogs at two or more premises. If a DBLA holder wishes to breed additional dogs at other premises, a DBLB may be applied for to cover the latter operation. A DBLA holder may obtain an ATL for selling, or offering to sell, dogs and/or other animals or birds at another premises.

DBLB

9. Commercial operators who keep more than four female dogs for breeding and sell those dogs or their offspring are required to obtain a DBLB. They will be subject to stringent control via the licence conditions, such as the provision of primary enclosures and exercise area for the dogs, and subject to more frequent inspections by authorised officers of AFCD. The one-person one-licence requirement will not be applicable to a DBLB holder as it is understood from current market practice that the licensee will usually employ staff to help with the breeding and trading operation. Likewise, an ATL holder will not be subject to the one-person one-licence restriction.

One-off Permit

10. Only an individual who is the licensed keeper in respect of the dog concerned³ will be eligible to apply for a one-off permit to sell that dog. The applicant must have kept the dog as the licensed keeper under the Rabies Regulation (Cap. 421 sub. leg. A) for a minimum of four consecutive months immediately before the date of application. Each permit is valid for six months for one transaction covering the specific dog concerned only. To avoid possible abuse of the proposed one-off permit by unscrupulous traders, we propose that DAFC may only grant a maximum of two one-off permits to a particular individual within any four-year period⁴.

³ Regulation 20(1) of Rabies Regulation (Cap. 421 sub. leg. A) states that no person shall keep a dog over the age of 5 months except under and in accordance with a licence granted by DAFC.

⁴ A holder of the one-off permit may surrender an unused permit previously granted and a surrendered permit would not be counted for the purpose of this requirement.

Setting a Minimum Age for a Person to Whom a Licence or Permit Holder Can Sell Dogs

11. Keeping a dog carries with it serious responsibility and commitment. For the protection of public health and animal welfare, it takes a person with a good measure of maturity to make the decision of buying a dog, and the reasonable capacity of taking care of it thereafter. It is our policy intention to introduce a new provision which prohibits an ATL, DBLA, DBLB or one-off permit holder from selling a dog to any person under the age of 16 years. This proposal has been suggested by various parties during the public consultation and is supported by animal traders.

Exemption from Licensing Requirement for Animal Welfare Organizations (“AWOs”) Providing Animals Rehoming Services

12. Over the years, AFCD has occasionally encountered cases seeking to by-pass the licensing requirement whereby the “seller” offers to give away an animal “for free” while at the same time demanding the “buyer” to purchase pet accessories or pet food etc., often at an inflated price, in exchange. To plug the loophole, the term “sell” will be defined to include “transfer, or agree to transfer, ownership of the animal or bird in consideration of entry by the transferee into another transaction”. With the new definition, selling pet accessories or food etc. for the transfer of the ownership of an animal or bird should constitute a sale, and be subject to the licensing requirement.

13. There are currently some AWOs which receive stray animals and pets voluntarily surrendered by their owners and arrange adoption or rehoming of such animals. Whilst the animals are usually given out without monetary consideration, it is common practice that these organizations would charge a fee to recover the costs of vaccination, desexing and/or other medical treatments of the animals concerned. Following the expansion of the definition of “sell”, such activities of the AWOs may amount to the “sale and offer for sale of dog”, and thereby be caught by the licensing requirement inadvertently. To relieve genuine animal rehoming organizations from the burden of the licensing requirement, we propose that DAFC be empowered to exempt an AWO from the requirement to obtain an ATL if he is satisfied that the AWO is conducting genuine rehoming of animals for welfare purposes on a non-profit making basis. In deciding whether to grant an exemption, DAFC may have regard to the relevant circumstances, including those to be set out in the Amendment Regulation⁵.

⁵ To qualify for the exemption, DAFC may consider, inter alia, whether – (a) the protection and promotion of animal welfare and rehoming is among the core activities and services of the AWO; (b) the AWO is a charitable institution or trust of a public character enjoying tax exemption status under Section 88 of the Inland Revenue Ordinance (Cap. 112); and (c) the AWO engages the services of a registered veterinary surgeon as an advisor on animal health and welfare.

(B) Grounds on which DAFC may refuse to grant or renew, or cancel a licence

14. Under the existing principal Regulations, DAFC must not grant or renew a licence unless he is satisfied that the standards of primary enclosures, housing facilities and outdoor areas of the premises as specified in the relevant regulation are complied with. However, it is unclear if DAFC may refuse to grant or renew a licence on grounds that the applicant has been convicted of an offence under the Public Health (Animals and Birds) Ordinance (Cap. 139) or the Prevention of Cruelty to Animals Ordinance (Cap. 169), or that the licensee has a past record of breaches of the licence conditions.

15. With a view to preventing cruelty to animals and better protecting animal welfare, we propose to specify in the principal Regulations that DAFC may grant or renew a licence if he is satisfied, apart from the stipulated requirements in relation to the premises, that the applicant or licensee is a suitable person to carry out the regulated activity. DAFC may refuse to grant or renew a licence if he is not satisfied that the applicant or licensee is a suitable person for such purpose. In considering whether an applicant or a licensee is a suitable person, DAFC may take into account all relevant factors, including but not limited to whether the person has been convicted of an offence under Cap. 139 and its subsidiary legislation, or an offence under section 3 of Cap. 169⁶, and whether the person has a past record of breaches of the conditions attached to any previous licence held by that licensee. DAFC may revoke a licence if DAFC considers that a person is no longer a suitable person to continue to hold the licence. During the validity period of a licence, should a licensee breach any regulation to which the licensee is subject or should there be a breach of the licence condition, DAFC may cancel the licence in accordance with section 10(2) of Cap. 139⁷.

(C) Increasing the penalty levels

16. As noted above, under the existing principal Regulations, the sale of animal or bird without a licence is an offence and the offender is liable on conviction to a fine of \$2,000, whereas the contravention of licence conditions may render the offender liable on conviction to a fine of \$1,000. The penalty levels are considered too lenient to have sufficient deterrence.

⁶ Section 3 of Cap. 169 sets out the key offences of cruelty to animals. Offenders are liable on summary conviction to a fine of \$200,000 and imprisonment for 3 years.

⁷ The provision stipulates that “any licence or permit issued under any regulation made under this Ordinance shall be liable to cancellation by [DAFC] for breach of any regulation to which the holder of such licence is subject, or for breach of any condition of such licence or permit”.

17. We propose to increase the maximum penalty for any person who sells, or keeps for breeding and sells, a dog without a licence (an ATL, or a DBLA or DBLB) or an one-off permit to a fine at level 6 (i.e. \$100,000); and increase the maximum penalty for contravention of a condition attached to a licence or permit to a fine at level 5 (i.e. \$50,000).

(D) Other technical amendments

18. We will propose a number of technical amendments to the principal Regulations, including setting out the fees payable for the grant and renewal of a licence or the grant of a permit in a Schedule, and providing for the transitional arrangements for existing ATL holders to tide over to the new regulatory regime.

19. Under the amended principal Regulations, DAFC will be empowered to grant a new category of licence for dog breeders and one-off permits for those who wish to sell dogs that are kept by them as pets. DAFC will also be empowered to attach, amend or revoke any conditions to the licence/permit as DAFC thinks fit, and to exempt a person from holding an animal trader licence. To facilitate the day-to-day operation of the regulatory regime, we propose to amend the Schedule to the Specification of Public Offices Notice (Cap. 1 sub. leg. C)⁸, such that DAFC may designate any public officer to exercise, on DAFC's behalf, the powers conferred on DAFC under the specified provisions of the amended principal Regulations.

THE AMENDMENT REGULATION

20. The Amendment Regulation at **Annex A** seeks to amend Cap. 139 sub. leg. B to implement the proposals in paragraphs 5 to 19 above. The main provisions of the Amendment Regulation are explained below –

- (a) Section 5 amends regulation 2 of the principal Regulations to include new terms and redefine old terms. In particular, *animal trader* is re-defined as excluding dog breeders, such that dog breeding activities and animal trading activities will require

⁸ Section 43(1) of the Interpretation and General Clauses Ordinance (Cap. 1) provides that “Where any Ordinance confers powers or imposes duties upon a specified public officer, such public officer may delegate any other public officer or the person for the time being holding any office designated by him to exercise such powers or perform such duties on his behalf, and thereupon, or from the date specified by such specified public officer, the person delegated shall have and may exercise such powers and perform such duties.” In this section, “specified public officer” means the person for the time being holding any public office which has been specified, either generally or for the purposes of any particular Ordinance, under this section by the Chief Executive in Council (CE-in-Council) by notice in the Gazette. The public offices specified for the purposes of various ordinances are set out in the Schedule to the Specification of Public Offices Notice (Cap. 1 sub. leg. C). Under the current Schedule to Cap. 1 sub. leg. C, DAFC is, among others, specified for the purposes of regulations 5(1) and (3) and 7 of Cap. 139 sub. leg. B.

different types of licences. *Sell* is also defined such that its ambit includes “transfer, or agree to transfer, ownership of an animal or bird in consideration of entry by the transferee into another transaction”;

- (b) Section 7 adds regulations 4AA and 4AAB to the principal Regulations. The new regulation 4AA provides for the prohibition of breeding dogs at premises without a licence. The new regulation 4AAB stipulates that a dog breeder must not keep at any premises more female dogs for breeding purposes than the number specified for the premises in the licence;
- (c) Section 8 adds regulation 4B to the principal Regulations to prohibit the sale of dogs to persons under 16.
- (d) Section 9 amends regulation 5 of the principal Regulations. DAFC is empowered under the amended regulation 5 to add to, amend and revoke the conditions attached to a licence;
- (e) Section 10 adds regulation 5A to 5H to the principal Regulations. The new regulation 5A provides for DAFC’s discretion to exempt certain AWOs from holding animal trader licences. The new regulations 5B and 5C specify DAFC’s powers in relation to the grant and renewal of the two categories of dog breeder licence. The newly added regulations 5D to 5G specify considerations that DAFC has to take into account in relation to the grant and cancellation of licences. The new regulation 5H prohibits the sale of dogs without a one-off permit by persons who are not licensees and specifies DAFC’s powers in relation to the grant of one-off permits to individuals;
- (f) Section 13 amends regulation 13 of the principal Regulations to provide for offences and penalties for newly added prohibitions; and
- (g) Section 15 adds regulation 16 to the principal Regulations which provides for transitional arrangements. A new fee schedule is also added to the principal Regulations to list the fees for the grant and renewal of animal trader licences and dog breeder licences, and the grant of one-off permit.

THE AMENDMENT NOTICE

21. The Amendment Notice at **Annex B** amends the Schedule to Cap. 1 sub. leg. C such that DAFC is specified for the purposes of regulations 5, 5A, 5B, 5C, 5D, 5E, 5F, 5G, and 5H of Cap. 139 sub. leg. B.

22. The existing provisions of Cap. 139 sub. leg. B and the existing Schedule to Cap. 1 sub. leg. C being amended by the Amendment Regulation and the Amendment Notice are at **Annex C** and **Annex D**.

LEGISLATIVE TIMETABLE

23. The legislative timetable is as follows –

Publication in the Gazette	20 May 2016
Tabling before LegCo	25 May 2016

IMPLICATIONS OF THE PROPOSALS

24. The proposals are in conformity with the Basic Law, including the provisions concerning human rights. It will not affect the current binding effect of the existing provisions of the Public Health (Animals and Birds) Ordinance (Cap. 139) and the Interpretation and General Clauses Ordinance (Cap. 1) and their subsidiary legislation. The proposals are not expected to have environmental, productivity, family, gender, or sustainability implications. As to economic implications, the proposal would increase the compliance costs for the concerned dog traders and possibly drive some of them out of the market, but the impact on the overall economy is expected to be insignificant. Additional resources are required for implementing the strengthened regulatory regime. The financial and civil service implications are set out in **Annex E**.

PUBLIC CONSULTATION

25. A public consultation was held from October to November 2012 to gauge public views on the proposals. Around 2 700 responses were received. During the public consultation period, we invited views from the LegCo Panel on Food Safety and Environmental Hygiene (“FSEH Panel”) and the deputations attending the meeting concerned, organised four consultation forums, met with representatives of animal welfare groups, pet traders, pet breeder association members, veterinary associations and kennel clubs members, and the Animal Welfare Advisory Group. We also met with representatives of some animal welfare groups which raised suggestions after the consultation period and exchanged views with them. A summary of the views collected is at **Annex F**.

26. On 16 April 2013, we briefed the FSEH Panel on the outcome of the public consultation and our initial legislative proposals. Panel Members and the deputations in attendance expressed mixed views on the proposed licence/permit system. The FSEH Panel passed a motion urging the Government to “issue a single animal breeder licence which applies to all commercial and private animal breeders and traders”. In view of the difference in opinion received, AFCD has in the ensuing months revisited the proposed legislative proposals and discussed issues of concern with the animal welfare groups, animal breeders/traders and other concerned parties in order to build consensus.

27. The Government notes that different stakeholders may have different views on the proposed amendments. While some advocate for a single-tier licensing regime for dog breeders, some others consider that animal health and welfare can be better protected by strengthening the regulation of animal trading and dog breeding activities as proposed by the Government. They support the early introduction of the legislative proposals. After taking into account the views of various parties, we believe that the current proposals serve the aim to promote animal health and welfare, and strike an appropriate balance between the protection of animal welfare and the interests of pet owners and animals traders.⁹ We consulted FSEH Panel again on 8 July 2014 on the finalised package of legislative proposals. After deliberation, Panel Members generally agreed to the legislative proposals put up by the Government.

PUBLICITY

28. We will issue a press release and a government spokesperson will be available to answer media and public enquiries.

ENQUIRIES

29. For enquiries about this brief, please contact Ms Hinny Lam, Principal Assistant Secretary for Food and Health, at 3509 7927.

Food and Health Bureau
Agriculture, Fisheries and Conservation Department
May 2016

⁹ A licensing regime will give an anchoring point for AFCD to carry out inspection, promotion and education work concerning dog breeding activities. From the Government’s point of view, it is more appropriate to set up a two-tier licensing regime. Most of the small-scale breeders already in existence (sometimes referred to as “hobby-breeders” or “home-breeders”) keep their dogs as pets and live with them in a household. With a pragmatic threshold, such breeders would not have any excuse not to apply for a licence. It might not be reasonable to require them to construct kennels and other facilities for accommodation of dogs at the same standard as those imposed on commercial breeders. By implementing a two-tier licensing regime, we are placing the breeding activities of such hobby-breeders under regulation, thereby offering better protection to the welfare of dogs. If there is only one type of animal breeder licence applicable to all licensees, the hobby-breeders may be discouraged from coming forward and it may even drive such breeding activities underground, increasing the level of difficulty in AFCD’s regulatory work.

Public Health (Animals and Birds) (Animal Traders) (Amendment) Regulation 2016

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Public Health (Animals and Birds) (Animal Traders) (Amendment) Regulation 2016

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

Part 1

Preliminary

1. Commencement

This Regulation comes into operation on a day to be appointed by the Secretary for Food and Health by notice published in the Gazette.

Part 2

Amendments to Public Health (Animals and Birds) (Animal Traders) Regulations

2. **Public Health (Animals and Birds) (Animal Traders)
Regulations amended**

The Public Health (Animals and Birds) (Animal Traders) Regulations (Cap. 139 sub. leg. B) are amended as set out in sections 3 to 15.

3. **Title amended**

The title—

Repeal

“ANIMAL TRADERS”

Substitute

“TRADING AND BREEDING”.

4. **Regulation 1 amended (citation)**

Regulation 1—

Repeal

“Animal Traders”

Substitute

“Trading and Breeding”.

5. **Regulation 2 amended (interpretation)**

(1) Regulation 2, definition of *animal trader*—

Repeal

everything after “a person who”

Substitute

“sells, or offers to sell, animals or birds, but does not include—

(a) a person selling, or offering to sell, any animal or bird kept by the person as a pet or any of its offspring; or

(b) a dog breeder;”.

(2) Regulation 2—

Repeal the definition of *licence*

Substitute

“*licence* (牌照) means—

(a) an animal trader licence; or

(b) a dog breeder licence;”.

(3) Regulation 2, definition of *licensed animal trader*—

Repeal

“a licence granted under regulation 5(1)(a)”

Substitute

“an animal trader licence”.

(4) Regulation 2, definition of *licensed premises*—

Repeal

“under regulation 5(1)(b)”.

(5) Regulation 2, definition of *sanitize*—

Repeal the full stop

Substitute a semicolon.

(6) Regulation 2—

Add in alphabetical order

“animal trader licence (動物售賣商牌照) means a licence granted or renewed under regulation 5(1);

contravene (違反) includes breach;

dog breeder (狗隻繁育者) means a person who—

- (a) keeps one or more female dogs for breeding purposes; and
- (b) sells, or offers to sell, any of those dogs or their offspring;

dog breeder licence (繁育狗隻牌照) means—

- (a) a dog breeder licence (category A); or
- (b) a dog breeder licence (category B);

dog breeder licence (category A) (甲類繁育狗隻牌照) means a licence granted or renewed under regulation 5B(1);

dog breeder licence (category B) (乙類繁育狗隻牌照) means a licence granted or renewed under regulation 5C(1);

licensee (持牌人), in relation to a licence, means the holder of the licence;

one-off permit (單次許可證) means a one-off permit granted under regulation 5H(3);

sell (出售), in relation to an animal or bird, includes transfer, or agree to transfer, ownership of the animal or bird to a person in consideration of entry by the person into another transaction.”.

6. **Regulation 4 amended (prohibition of trading without a licence)**

- (1) Regulation 4, heading—

Repeal

“trading without a licence”

Substitute

“trading animals without licence etc.”.

- (2) Regulation 4(1), English text—

Repeal

“shall”

Substitute

“must”.

- (3) Regulation 4(1)(a)—

Repeal

“a licence”

Substitute

“an animal trader licence or an exemption granted under regulation 5A(1)”.

- (4) Regulation 4(1)—

Repeal subparagraph (b)

Substitute

“(b) keep animals or birds, or both, for the purpose of the person’s business as an animal trader otherwise than at premises in respect of which the person is granted an animal trader licence.”.

- (5) Regulation 4—

Repeal paragraph (2)

Substitute

“(2) If a person keeps animals or birds, or both, for the purpose of the person’s business as an animal trader at different premises, the person must hold an animal trader licence in respect of each of the premises.”.

7. **Regulations 4AA and 4AAB added**

After regulation 4—

Add

“4AA. Prohibition of breeding dogs without licence etc.

- (1) A person must not—
 - (a) act as a dog breeder otherwise than under a dog breeder licence; or
 - (b) keep dogs as a dog breeder otherwise than at premises in respect of which the person is granted a dog breeder licence.
- (2) If a person keeps dogs as a dog breeder at different premises, the person must hold a dog breeder licence in respect of each of the premises.

4AAB. Prohibition of keeping more dogs than permitted

A person holding a dog breeder licence in respect of any premises must not at any time keep at the premises a greater number of female dogs for breeding purposes than the number specified for the premises in the licence.”.

8. **Regulation 4B added**

After regulation 4A—

Add

“4B. Prohibition of selling dogs to persons under 16

- (1) No person may sell a dog to any person under the age of 16 years.
- (2) A person who contravenes paragraph (1) commits an offence and is liable on conviction to a fine at level 5.

- (3) It is a defence to a charge for an offence under paragraph (2) for a defendant to establish that, at the time the offence is alleged to have been committed, the defendant had reasonable cause to believe, and did believe, that the person to whom the dog was sold was not under the age of 16 years.
- (4) The defendant is taken to have established a fact that needs to be established for the defence if—
 - (a) there is sufficient evidence to raise an issue with respect to that fact; and
 - (b) the contrary is not proved by the prosecution beyond reasonable doubt.”.

9. **Regulation 5 amended (power of Director to license animal traders)**

- (1) Regulation 5, heading—

Repeal

“license animal traders”

Substitute

“grant or renew animal trader licences”.

- (2) Regulation 5—

Repeal paragraphs (1) and (2)

Substitute

- “(1) On application in the form specified by the Director and payment of the fee specified in the Schedule, the Director may grant to any person an animal trader licence in respect of any premises, or renew the licence, to—**
- (a) carry on business as an animal trader; and

- (b) keep at the premises animals or birds, or both, for the purpose of the person's business as an animal trader.
- (2) The Director must not grant or renew an animal trader licence unless the Director is satisfied that the primary enclosures, housing facilities and outdoor areas of the premises in which the applicant intends to keep the animals or birds, or both, conform to the standards specified in regulation 6."

(3) Regulation 5(3)—

Repeal

everything after "Director may"

Substitute

"at any time—

- (a) attach to an animal trader licence any condition the Director thinks fit; and
- (b) amend or revoke any condition so attached."

(4) Regulation 5—

Repeal paragraph (4)

Substitute

"(4) An animal trader licence is valid for a period of 12 months beginning on the date the licence is granted or renewed."

(5) Regulation 5—

Repeal paragraph (5).

10. Regulations 5A to 5H added

After regulation 5—

Add

"5A. Exemption from holding an animal trader licence

- (1) If the Director is satisfied that a person is conducting genuine rehoming activities for animal welfare purposes on a non-profit-making basis, the Director may exempt the person from holding an animal trader licence.
- (2) In determining whether a person is conducting genuine rehoming activities for animal welfare purposes on a non-profit-making basis, the Director may take into account all relevant factors, including—
 - (a) whether the person falls within any of the following descriptions—
 - (i) a charitable institution or trust of a public character that is exempt from tax under section 88 of the Inland Revenue Ordinance (Cap. 112);
 - (ii) a society as defined by section 2(1) of the Societies Ordinance (Cap. 151) and registered under section 5A(1) of that Ordinance;
 - (iii) a body of persons, or charity, as defined by section 2(1) of the Registered Trustees Incorporation Ordinance (Cap. 306), which has been granted a certificate of incorporation under section 4(1) of that Ordinance;
 - (iv) a company registered under the Companies Ordinance (Cap. 622) or under the Companies Ordinance (Cap. 32) as in force at the time of the registration;
 - (b) whether the protection and promotion of animal welfare and rehoming are amongst the core activities and services of the person; and

- (c) whether the person engages the services of a registered veterinary surgeon as defined by section 2 of the Veterinary Surgeons Registration Ordinance (Cap. 529) to act as an advisor on animal health and welfare.
- (3) The Director may at any time—
 - (a) attach to an exemption any condition the Director thinks fit; and
 - (b) amend or revoke any condition so attached.
- (4) The Director may at any time revoke an exemption if—
 - (a) any condition of the exemption has been contravened; or
 - (b) the person to whom the exemption is granted no longer satisfies the Director that the person is conducting genuine rehoming activities for animal welfare purposes on a non-profit-making basis.
- (5) The Director may only—
 - (a) grant an exemption for a fixed period; and
 - (b) renew an exemption, each time for a fixed period.

5B. Power of Director to grant or renew dog breeder licences (category A)

- (1) On application in the form specified by the Director and payment of the fee specified in the Schedule, the Director may grant to any individual a dog breeder licence (category A) in respect of any premises, or renew the licence, to—
 - (a) at any time keep at the premises up to the number of female dogs for breeding purposes that is specified for the premises in the licence; and

- (b) sell, or offer to sell, any of those dogs or their offspring.
- (2) For subsection (1)(a), the Director may specify up to 4 female dogs.
- (3) The Director must not grant or renew a dog breeder licence (category A) unless the Director is satisfied that the primary enclosures, housing facilities and outdoor areas of the premises in which the applicant intends to keep the dogs conform to the standards specified in regulation 6.
- (4) The Director may at any time—
 - (a) attach to a dog breeder licence (category A) any condition the Director thinks fit; and
 - (b) amend or revoke any condition so attached.
- (5) A dog breeder licence (category A) is valid for a period of 12 months beginning on the date the licence is granted or renewed.
- (6) An individual may at any time hold only 1 dog breeder licence (category A).

5C. Power of Director to grant or renew dog breeder licences (category B)

- (1) On application in the form specified by the Director and payment of the fee specified in the Schedule, the Director may grant to any person a dog breeder licence (category B) in respect of any premises, or renew the licence, to—
 - (a) at any time keep at the premises up to the number of female dogs for breeding purposes that is specified for the premises in the licence; and
 - (b) sell, or offer to sell—

- (i) any of those dogs or their offspring; and
 - (ii) any dogs from sources specified in the licence.
- (2) The Director must not grant or renew a dog breeder licence (category B) unless the Director is satisfied that the primary enclosures, housing facilities and outdoor areas of the premises in which the applicant intends to keep the dogs conform to the standards specified in regulation 6.
- (3) The Director may at any time—
 - (a) attach to a dog breeder licence (category B) any condition the Director thinks fit; and
 - (b) amend or revoke any condition so attached.
- (4) A dog breeder licence (category B) is valid for a period of 12 months beginning on the date the licence is granted or renewed.

5D. Provision supplementary to regulations 5, 5B and 5C—premises

The Director may only grant 1 licence in respect of 1 premises.

5E. Provision supplementary to regulations 5, 5B and 5C—individuals

- (1) The Director must not grant a licence to an individual, or renew a licence held by an individual, unless—
 - (a) the individual has attained the age of 18 years at the date of application for the licence; and
 - (b) the individual satisfies the Director that the individual is a suitable person to hold the licence.

- (2) In determining whether an individual is a suitable person to hold a licence, the Director may take into account all relevant factors, including—
 - (a) whether the individual has been convicted of an offence under the Ordinance or section 3 of the Prevention of Cruelty to Animals Ordinance (Cap. 169);
 - (b) whether any condition attached to a licence held, or previously held, by the individual has been contravened; and
 - (c) whether any licence previously held by the individual has been cancelled.

5F. Provision supplementary to regulations 5, 5B and 5C—bodies corporate or partnerships

- (1) The Director must not grant an animal trader licence or dog breeder licence (category B) to a body corporate or partnership, or renew a licence held by a body corporate or partnership, unless—
 - (a) the body corporate or partnership satisfies the Director that it is a suitable person to hold the licence;
 - (b) the body corporate or partnership has authorized an individual to act as its representative for the purpose of the licence; and
 - (c) the individual satisfies the Director that the individual is a suitable person to manage the operation of the body corporate or partnership permitted by the licence.
- (2) In determining whether a body corporate or partnership is a suitable person to hold an animal trader licence or

- dog breeder licence (category B), the Director may take into account all relevant factors, including—
- (a) whether the body corporate or partnership has been convicted of an offence under the Ordinance or section 3 of the Prevention of Cruelty to Animals Ordinance (Cap. 169);
 - (b) whether any condition attached to a licence held, or previously held, by the body corporate or the partnership has been contravened; and
 - (c) whether any licence previously held by the body corporate or partnership has been cancelled.
- (3) In determining whether an individual is a suitable person to manage the operation of a body corporate or partnership permitted by a licence, the Director may take into account all relevant factors, including—
- (a) whether the individual has been convicted of an offence under the Ordinance or section 3 of the Prevention of Cruelty to Animals Ordinance (Cap. 169);
 - (b) whether any condition attached to any of the following licences has been contravened—
 - (i) a licence held, or previously held, by the individual;
 - (ii) a licence held, or previously held, by a body corporate or partnership for which the individual is or was authorized by the body corporate or partnership to act as its representative; and
 - (c) whether any of the following licences has been cancelled—
 - (i) a licence previously held by the individual;

- (ii) a licence previously held by a body corporate or partnership for which the individual was authorized by the body corporate or partnership to act as its representative.
- (4) If a licensee is a body corporate or partnership, the licensee may, with the approval of the Director, substitute another individual (*substitute individual*) for the individual who has been authorized by the licensee to act as its representative for the purpose of the licence.
- (5) The Director must not give approval under paragraph (4) unless the substitute individual satisfies the Director that the individual is a suitable person to manage the operation of a body corporate or partnership permitted by the licence.

5G. Provision supplementary to regulations 5, 5B and 5C—cancellation

- (1) The Director may cancel a licence if the Director considers that—
 - (a) in any case—the licensee is no longer a suitable person to hold the licence;
 - (b) if the licensee is a body corporate or partnership—the individual authorized by the licensee to act as its representative is no longer a suitable person to manage the operation of the body corporate or partnership permitted by the licence; or
 - (c) any condition attached to the licence has been contravened.
- (2) The Director must not cancel a licence without first giving the licensee an opportunity of being heard.

5H. One-off permit to sell dog without licence

- (1) This regulation does not apply in relation to a dog that is sold, or offered to be sold, under a licence.
- (2) A person must not sell, or offer to sell, a dog otherwise than under a one-off permit.
- (3) On application in the form specified by the Director and payment of the fee specified in the Schedule, the Director may grant a one-off permit in respect of a dog to any individual to sell, and offer to sell, the dog.
- (4) The Director may attach to a one-off permit any condition the Director thinks fit.
- (5) For this regulation, a one-off permit is used once the sale of the dog to which the permit relates is concluded.
- (6) A one-off permit that is not used ceases to be valid on the expiry of the 6-month period beginning on the date on which the permit is granted.
- (7) The Director must not grant a one-off permit to an individual in respect of a dog unless—
 - (a) the individual has attained the age of 18 years at the date of application for the permit; and
 - (b) the individual has kept the dog for 4 consecutive months as a licensed keeper immediately before the date of application.
- (8) The Director may grant a maximum of 2 one-off permits to an individual within a period of 4 years beginning on the date the first of the permits for the period is granted.
- (9) For paragraph (8), a fresh 4-year period begins on the date a one-off permit is granted after a preceding 4-year period expires.

- (10) The holder of a one-off permit may surrender the permit by returning it to the Director before it is used, whether or not it has ceased to be valid.
- (11) For paragraphs (8) and (9), a one-off permit surrendered under paragraph (10) is not counted as a one-off permit.
- (12) In this regulation—
licensed keeper (持牌飼養人) means a keeper as defined by section 2 of the Rabies Ordinance (Cap. 421) who has been granted a licence under section 19A(1) of the Rabies Regulation (Cap. 421 sub. leg. A)."

11. Regulation 9 amended (husbandry and sanitation)

Regulation 9—

Repeal

"A licensed animal trader shall comply"

Substitute

"A licensee must comply".

12. Regulation 10 amended (certain animals and birds to be kept separate)

Before regulation 10(1)—

Add

"(1A) This regulation applies only in relation to animals and birds kept under a licence."

13. Regulation 13 amended (offences and penalties)

(1) Regulation 13(1)—

Repeal

"4A, 11 or 12 shall be guilty of an offence and shall be liable on conviction to a fine at level 1"

Substitute

“4AA(1)(a), 4AAB, 4A, 5H(2), 11 or 12 commits an offence and is liable on conviction to a fine at level 6”.

- (2) Regulation 13(2)—

Repeal

“licensed animal trader”

Substitute

“licensee”.

- (3) Regulation 13(2)(a)—

Repeal

“specified in his”

Substitute

“attached to the”.

- (4) Regulation 13(2)(b)—

Repeal

everything after “4(1)(b),”

Substitute

“4AA(1)(b), 7, 9, 10 or 16(4),”.

- (5) Regulation 13(2)—

Repeal

“shall be guilty of an offence and shall be liable on conviction to a fine of 1,000 dollars”

Substitute

“commits an offence and is liable on conviction to a fine at level 5”.

- (6) After regulation 13(2)—

Add

“(3) The holder of a one-off permit who contravenes any condition attached to the permit commits an offence and is liable on conviction to a fine at level 5.”.

14. **Regulation 15 repealed (transitional arrangement for existing licence holders)**

Regulation 15—

Repeal the regulation.

15. **Regulation 16 and Schedule added**

At the end of the Regulations—

Add

- “16. Transitional arrangements for existing licensed animal traders**

(1) An animal trader licence that is valid immediately before the commencement date remains valid subject to its terms until its expiry.

(2) A person may act as a dog breeder at any premises on or after the commencement date if—

(a) the person is a licensed animal trader in respect of the premises, and the licence is valid immediately before the commencement date; and

(b) the person is permitted to keep female dogs for breeding purposes at the premises under that licence.

(3) Paragraph (2) does not permit a person described in that paragraph to act as a dog breeder after the animal trader licence held by the person expires.

(4) A person who immediately before the commencement date holds an animal trader licence, under which the

- person is permitted to sell dogs, in respect of a premises may until its expiry only sell, or offer to sell, dogs that are—
- (a) kept at the premises immediately before the commencement date under the licence;
 - (b) legally imported on or after the commencement date;
 - (c) acquired on or after the commencement date—
 - (i) from a licensed animal trader;
 - (ii) from a dog breeder holding a licence; or
 - (iii) under a one-off permit; or
 - (d) for a person who acts as a dog breeder under paragraph (2)—bred at the premises.
- (5) In this regulation—
- commencement date** (生效日期) means the day on which the Public Health (Animals and Birds) (Animal Traders) (Amendment) Regulation 2016 comes into operation.

Schedule

[regs. 5, 5B,
5C & 5H]

Fees

Column 1 Item	Column 2 Description	Column 3 Fee \$
1.	Grant of an animal trader licence under regulation 5(1)	3,780
2.	Renewal of an animal trader licence under regulation 5(1)	2,970
3.	Grant of a dog breeder licence (category A) under regulation 5B(1)	1,350
4.	Renewal of a dog breeder licence (category A) under regulation 5B(1)	805
5.	Grant of a dog breeder licence (category B) under regulation 5C(1)	4,700
6.	Renewal of a dog breeder licence (category B) under regulation 5C(1)	3,510
7.	Grant of a one-off permit under regulation 5H(3)	225”.

Part 3

Consequential Amendment to Public Health (Animals and Birds) Regulations

16. **Public Health (Animals and Birds) Regulations amended**

The Public Health (Animals and Birds) Regulations (Cap. 139 sub. leg. A) are amended as set out in section 17.

17. **Regulation 9B amended (imported quails to be taken to specified premises)**

Regulation 9B—

Repeal

“(Animal Traders) Regulations (Cap. 139 sub. leg.)”

Substitute

“(Trading and Breeding) Regulations (Cap. 139 sub. leg. B)”.

Clerk to the Executive Council

COUNCIL CHAMBER

2016

Explanatory Note

The main object of this Regulation, which amends the Public Health (Animals and Birds) (Animal Traders) Regulations (Cap. 139 sub. leg. B) (*principal Regulations*), is to regulate the keeping and selling of dogs through a licensing arrangement.

- Sections 3 and 4 respectively amend the title and the citation of the principal Regulations to better reflect the scope of the amended principal Regulations.
- Section 5 amends regulation 2 of the principal Regulations to include new terms and redefine old terms. In particular, *animal trader* is redefined as excluding dog breeders, such that dog breeding activities and animal trading activities will require different types of licences. *Sell* is also defined such that its ambit includes to transfer, or agree to transfer, ownership of an animal or bird in consideration of entry by the transferee into another transaction.
- Section 6 makes minor textual amendments to regulation 4 of the principal Regulations.
- Section 7 adds regulations 4AA and 4AAB to the principal Regulations. The new regulation 4AA provides for the prohibition of breeding dogs at premises without a licence. The new regulation 4AAB stipulates that a dog breeder must not keep at any premises more female dogs for breeding purposes than the number specified for the premises in the licence.
- Section 8 adds regulation 4B to the principal Regulations to prohibit the sale of dogs to persons under 16.
- Section 9 amends regulation 5 of the principal Regulations to vary the powers of the Director of Agriculture, Fisheries and Conservation (*Director*) in relation to the conditions attached to a licence. Minor textual amendments are also made.

8. Section 10 adds regulations 5A to 5H to the principal Regulations. The new regulation 5A provides for the Director's discretion to exempt certain animal welfare organizations from holding animal trader licences. The new regulations 5B and 5C provide for the Director's powers in relation to the grant and renewal of dog breeder licence (category A) and dog breeder licence (category B) respectively. The new regulations 5D to 5G make provisions supplementary to regulations 5, 5B and 5C. The new regulation 5H prohibits the sale of dogs without a one-off permit by persons who are not licensees and provides for the Director's power to grant one-off permits to individuals. It also stipulates the number of permits that can be granted to an individual within a period of time.
9. Section 11 amends regulation 9 of the principal Regulations such that it applies to both licensed animal traders and dog breeders holding a licence.
10. Section 12 amends regulation 10 of the principal Regulations such that it applies only in relation to animals and birds kept under a licence.
11. Section 13 amends regulation 13 of the principal Regulations to provide for offences and penalties for newly added prohibitions.
12. Section 14 repeals regulation 15 of the principal Regulations which is spent.
13. Section 15 adds regulation 16 and the Schedule to the principal Regulations. The new regulation 16 provides for the transitional arrangements for existing licensed animal traders. The new Schedule lists the fees for the grant and renewal of animal trader licences and dog breeder licences, and the grant of one-off permits, under the amended principal Regulations.
14. Section 17 contains a consequential amendment to the Public Health (Animals and Birds) Regulations (Cap. 139 sub. leg. A).

Specification of Public Offices (Amendment) Notice 2016

(Made by the Chief Executive in Council under section 43 of the
Interpretation and General Clauses Ordinance (Cap. 1))

1. Commencement

This Notice comes into operation on the day on which the Public Health (Animals and Birds) (Animal Traders) (Amendment) Regulation 2016 comes into operation.

2. Specification of Public Offices Notice amended

The Specification of Public Offices Notice (Cap. 1 sub. leg. C) is amended as set out in section 3.

3. Schedule amended (specification of public offices)

The Schedule, entry relating to the Director of Agriculture, Fisheries and Conservation specified for the purposes of the Public Health (Animals and Birds) (Animal Traders) Regulations (Cap. 139 sub. leg. B)—

Repeal

“(Animal Traders) Regulations (Cap. 139 sub. leg. B), regulations 5(1) and (3)”

Substitute

“(Trading and Breeding) Regulations (Cap. 139 sub. leg. B), regulations 5, 5A, 5B, 5C, 5D, 5E, 5F, 5G, 5H”.

Clerk to the Executive Council

COUNCIL CHAMBER

2016

Explanatory Note

The Public Health (Animals and Birds) (Animal Traders) (Amendment) Regulation 2016 (L.N. of 2016) amends the Public Health (Animals and Birds) (Animal Traders) Regulations (Cap. 139 sub. leg. B) (*Regulations*) to—

- (a) change the title of the Regulations; and
- (b) add provisions to confer new powers on the Director of Agriculture, Fisheries and Conservation (*Director*).

2. Section 43 of the Interpretation and General Clauses Ordinance (Cap. 1) provides for delegation by persons holding a public office specified under that section. The Schedule to the Specification of Public Offices Notice (Cap. 1 sub. leg. C) contains a list of specified public offices for the purposes of different Ordinances. This Notice amends the relevant entry in that Schedule so that—

- (a) the reference to the title of the Regulations is updated; and
- (b) the Director may delegate the new powers in accordance with that section.

Annex C

Chapter:	139B	Title:	PUBLIC HEALTH (ANIMALS AND BIRDS) (ANIMAL TRADERS) REGULATIONS	Gazette Number:
Regulation:	1	Heading:	Citation	Version Date: 30/06/1997

These regulations may be cited as the Public Health (Animals and Birds) (Animal Traders) Regulations.

Chapter:	139B	Title:	PUBLIC HEALTH (ANIMALS AND BIRDS) (ANIMAL TRADERS) REGULATIONS	Gazette Number:
Regulation:	2	Heading:	Interpretation	Version Date: 30/06/1997

In these regulations, unless the context otherwise requires-

"animal trader" (動物售賣商) means a person who sells, or offers to sell, animals or birds, other than a person selling or offering to sell any animal or bird kept by him as a pet or any offspring thereof;

"housing facility" (畜舍設施) means a room, building or premises used to contain a primary enclosure;

"licence" (牌照) means a licence granted or renewed under regulation 5;

"licensed animal trader" (持牌動物售賣商) means the holder of a licence granted under regulation 5(1)(a); (L.N. 410 of 1990)

"licensed premises" (領有牌照的處所) means any premises in respect of which a licence is granted under regulation 5(1)(b); (L.N. 410 of 1990)

"outdoor area" (戶外範圍) means an outdoor area or space, whether containing a primary enclosure or not, used for the keeping, exercise or containment of animals or birds;

"primary enclosure" (基本圍封物) means a room, pen, case, compartment, hutch, or structure, used to immediately restrict animals or birds to a limited amount of space;

"sanitize" (潔淨) means to physically clean, and to remove and destroy, agents injurious to health.

Chapter:	139B	Title:	PUBLIC HEALTH (ANIMALS AND BIRDS) (ANIMAL TRADERS) REGULATIONS	Gazette Number:
Regulation:	4	Heading:	Prohibition of trading without a licence	Version Date: 30/06/1997

(1) A person shall not-

- (a) carry on business as an animal trader otherwise than under a licence; or
- (b) keep animals for the purpose of his business as an animal trader other than in premises in respect of which a licence is granted.

(2) Where an animal trader keeps animals for the purpose of his business as such in different premises a licence shall be required for the purposes of this regulation in respect of each of such premises.

(L.N. 410 of 1990)

Chapter:	139B	Title:	PUBLIC HEALTH (ANIMALS AND BIRDS) (ANIMAL TRADERS) REGULATIONS	Gazette Number:	L.N. 76 of 2002
Regulation:	5	Heading:	Power of Director to license animal traders	Version Date:	01/07/2002

(1) Upon application in the form specified by the Director and payment of the fee referred to in paragraph (5) the Director may grant a licence to any person to-

- (a) carry on business as an animal trader; and
- (b) keep animals for the purpose of such business in the premises in respect of which the licence is granted. (L.N. 410 of 1990)

(2) A licence shall not be granted or renewed unless the Director is satisfied that the primary enclosures, housing facilities and outdoor areas in which the applicant or licensee, as the case may be, intends to keep the animals or birds, conform to the standards specified in regulation 6.

(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. 410 of 1990)

(5) The fee for a licence shall be \$2670. (L.N. 410 of 1990; L.N. 45 of 1995; L.N. 210 of 1996; L.N. 524 of 1997; L.N. 76 of 2002)

(6)-(7) (Repealed L.N. 410 of 1990)

Chapter:	139B	Title:	PUBLIC HEALTH (ANIMALS AND BIRDS) (ANIMAL TRADERS) REGULATIONS	Gazette Number:	
Regulation:	9	Heading:	Husbandry and sanitation	Version Date:	30/06/1997

A licensed animal trader shall comply with the following requirements-

- (a) the housing facilities, primary enclosure and outdoor area shall be maintained in a clean and sanitary condition;
- (b) all excretal and other waste matter shall be removed from the licensed premises not less than once a day;
- (c) a programme for the control and destruction of insects, ectoparasites, avian and mammalian pests on the licensed premises shall be approved by, and maintained to the satisfaction of, the Director;
- (d) the food served to the animals or birds shall be adequate, free from

- contamination, wholesome and nutritive;
- (e) the water supplied to the animals or birds shall be potable and uncontaminated;
- (f) food and water receptacles shall be-
 - (i) readily accessible to animals and birds;
 - (ii) kept clean; and
 - (iii) sanitized at such intervals as may be necessary to prevent contamination of the food and water; and
- (g) a supply of disinfectants shall be available for purposes of sanitation.

Chapter:	139B	Title:	PUBLIC HEALTH (ANIMALS AND BIRDS) (ANIMAL TRADERS) REGULATIONS	Gazette Number:	
Regulation:	10	Heading:	Certain animals or birds to be kept separate	Version Date:	30/06/1997

- (1) Animals or birds shall not be housed in the same primary enclosure unless they are of the same, or of a compatible, genus.
- (2) Notwithstanding that they are of the same, or of a compatible, genus-

- (a) females in season (oestrus) shall not be housed in the same primary enclosure with males except for breeding purposes;
- (b) animals or birds of vicious disposition shall be housed individually in separate primary enclosures;
- (c) except where permanently maintained in breeding colonies, young animals or birds shall not be housed in the same primary enclosure with any adult animals or birds other than their dams or equivalent; and
- (d) animals or birds under treatment for a communicable disease shall be kept separate from other animals or birds.

Chapter:	139B	Title:	PUBLIC HEALTH (ANIMALS AND BIRDS) (ANIMAL TRADERS) REGULATIONS	Gazette Number:	L.N. 277 of 2001
Regulation:	13	Heading:	Offences and penalties	Version Date:	14/12/2001

- (1) Any person who contravenes regulation 4(1)(a), 4A, 11 or 12 shall be guilty of an offence and shall be liable on conviction to a fine at level 1. (L.N. 410 of 1990)
- (2) A licensed animal trader who contravenes-

- (a) any condition specified in his licence; or
- (b) regulation 4(1)(b), 7, 9 or 10, (L.N. 410 of 1990)

shall be guilty of an offence and shall be liable on conviction to a fine of 1000 dollars.

(L.N. 219 of 2001; L.N. 263 of 2001)

Chapter:	139B	Title:	PUBLIC HEALTH (ANIMALS AND BIRDS) (ANIMAL TRADERS) REGULATIONS	Gazette Number:	L.N. 277 of 2001
Regulation:	15	Heading:	Transitional arrangement for existing licence holders	Version Date:	14/12/2001

(1) The amendments in the Amendment Regulation apply, with effect from the specified date but not earlier, in relation to a holder of a licence which is in force immediately before the commencement date and is in force on the specified date.

(2) The amendments in the Amendment Regulation do not apply in relation to a holder of a licence which-

(a) is in force immediately before the commencement date and is in force on that date; but

(b) ceases to have effect on or before the specified date.

(3) In this regulation-

"Amendment Regulation" (《修訂規例》) means the Public Health (Animals and Birds) (Animal Traders) (Amendment) Regulation 2001 (L.N. 219 of 2001);

"commencement date" (生效日期) means the date on which the Amendment Regulation comes into operation;

"specified date" (指明日期) means the date next following the expiry of the period of 60 days beginning on the commencement date. (L.N. 262 of 2001)

(L.N. 219 of 2001)

Chapter:	1C	SPECIFICATION OF PUBLIC OFFICES NOTICE	Gazette Number	Version Date
		Empowering section	18 of 2014	05/12/2014

(Cap 1, section 43)

(Repealed 18 of 2014 s. 60)

Note:

The title of this Notice was amended from “Specification of Public Offices” to “Specification of Public Offices Notice” — see 18 of 2014 s. 59.

Section:	1	Specification of public offices	18 of 2014	05/12/2014
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A public office mentioned in column 1 of the Schedule is specified for the purposes of the Ordinance, or a provision of the Ordinance, mentioned in column 2 of the Schedule opposite to that public office.

(18 of 2014 s. 61)

Note:

On 5 December 2014, all specifications made under section 43 of the Interpretation and General Clauses Ordinance (Cap 1) before 5 December 2014 (other than the one set out in section 1 of Schedule 3 to the Land Titles Ordinance (Cap 585)) were repealed - see section 63 of Ord. No. 18 of 2014.

Schedule:		Schedule	18 of 2014	05/12/2014
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Specification of Public Offices

Column 1	Column 2
Public office	Ordinance or provision of Ordinance
Chief Justice	Bankruptcy Ordinance (Cap 6), paragraph (c) of the definition of <i>Registrar</i> in section 99A(7).
Chief Justice	Evidence Ordinance (Cap 8), sections 27(2) and 29A(2).
Chief Justice	Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap 32), paragraph (c) of the definition of <i>Registrar</i> in section 222A(7).
Chief Justice	Juvenile Offenders Ordinance (Cap 226), section 3A(2).
Chief Secretary for Administration	Rules of the High Court (Cap 4 sub. leg. A), Order 69, rule 2, and Order 70, rule 3.
Chief Secretary for Administration	Evidence Ordinance (Cap 8), sections 19A(1) and 40(5).
Chief Secretary for Administration	Immigration Ordinance (Cap 115).
Chief Secretary for Administration	Air Passenger Departure Tax Ordinance (Cap 140).
Chief Secretary for Administration	Registration of Persons Ordinance (Cap 177), section 11.
Chief Secretary for Administration	Criminal Procedure Ordinance (Cap 221), section 85(1).
Chief Secretary for Administration	Prison Rules (Cap 234 sub. leg. A), rule 222(2).
Chief Secretary for Administration	Probation of Offenders Rules (Cap 298 sub. leg. A), rule 42.
Chief Secretary for Administration	Basel Evangelical Missionary Society Incorporation Ordinance (Cap 1002), section 6(2).

Conservation	
Director of Agriculture, Fisheries and Conservation	Pesticides Regulations (Cap 133 sub. leg. A).
Director of Agriculture, Fisheries and Conservation	Public Health (Animals and Birds) Ordinance (Cap 139), sections 6, 7 and 10(2).
Director of Agriculture, Fisheries and Conservation	Public Health (Animals and Birds) Regulations (Cap 139 sub. leg. A), regulations 30, 34, 35, 37, 44 and 51.
Director of Agriculture, Fisheries and Conservation	Public Health (Animals and Birds) (Animal Traders) Regulations (Cap 139 sub. leg. B), regulations 5(1) and (3) and 7.
Director of Agriculture, Fisheries and Conservation	Public Health (Animals and Birds) (Keeping of Cattle, Sheep and Goats) Regulations (Cap 139 sub. leg. C), regulations 4, 11(1) and 13.
Director of Agriculture, Fisheries and Conservation	Dairies Regulations (Cap 139 sub. leg. D), regulations 3, 8, 9, 11, 15, 16(2), 18, 19(2)(f), 21(3), 26(1) and 29(2).
Director of Agriculture, Fisheries and Conservation	Public Health (Animals and Birds) (Exhibitions) Regulations (Cap 139 sub. leg. F), regulations 4(1) and (3), 6(a) and (b) and 8(1) and (3).
Director of Agriculture, Fisheries and Conservation	Public Health (Animals) (Boarding Establishment) Regulations (Cap 139 sub. leg. I), regulations 5(1) and (3) and 7.
Director of Agriculture, Fisheries and Conservation	Public Health (Animals) (Riding Establishment) Regulations (Cap 139 sub. leg. J), regulations 5(1) and (3) and 7.
Director of Agriculture, Fisheries and Conservation	Wild Animals Protection Ordinance (Cap 170), section 13.
Director of Agriculture, Fisheries and Conservation	Plant (Importation and Pest Control) Ordinance (Cap 207).
Director of Agriculture, Fisheries and Conservation	Country Parks and Special Areas Regulations (Cap 208 sub. leg. A), regulations 4(1) and (2)(a), 5(1) and (2)(b), 8(1), 9(1), 10(1)(a), (b), (c) and (d) and (2), 11(1), (2) and (3)(a), 13(2), 14, 15(4) and 18(5).
Director of Agriculture, Fisheries and Conservation	Marine Parks Ordinance (Cap 476), section 22(1).
Director of Agriculture, Fisheries and Conservation	Marine Parks and Marine Reserves Regulation (Cap 476 sub. leg. A), section 17.
Director of Agriculture, Fisheries and Conservation	Kadoorie Agricultural Aid Loan Fund Ordinance (Cap 1080), section 7.
Director of Buildings	Hong Kong Airport (Control of Obstructions) Ordinance (Cap 301), sections 5, 7(1), 13, 14(1), 15(1), (2)(c)(ii) and (8), 16(1), (3), (6), (8) and (9), 17, 18(2) and 20(g).
Director of Buildings as Building Authority	Buildings Ordinance (Cap 123).
Director of Buildings as Building Authority	Mass Transit Railway (Land Resumption and Related Provisions) Ordinance (Cap 276), section 15(1).
Director of Buildings as Building Authority	Education Ordinance (Cap 279), section 12(1)(d).
Director of Buildings as Building Authority	Roads (Works, Use and Compensation) Ordinance (Cap 370).
Director of Buildings as Building Authority	Kowloon-Canton Railway Corporation Ordinance (Cap 372), section 35(1).

Financial and Civil Service Implications

The proposal would have financial and civil service implications as explained below –

(A) Capital cost for purchasing equipment for canine DNA parentage test:

Under the revised regulatory regime, dog breeders who sell or offer to sell their dogs will be required to obtain a DBLA or DBLB. To ensure that the female dogs and their puppies are properly registered under the licensing regime and there being no mixing of unregistered dogs in the breeding and selling activities, licensed dog breeders will be requested to bring their breeding dams and puppies to AFCD for buccal swab sample collection. These samples will be processed and labelled immediately, and stored in a centralised refrigeration system for long-term storage. Should any discrepancy of any claimed canine parentage be suspected, respective buccal swab samples will be retrieved for DNA testing. As there will be a vast number of samples stored, a computerized barcoding and movement tracking system will be introduced for better management of the samples. In addition, as the samples may be used as evidence in support of any prosecution cases, a security system will be installed with the centralised refrigeration system.

Resources have been included in the relevant Estimates for meeting the total capital cost involved for the procurement of equipment for conducting DNA parentage test and keeping of canine buccal swab samples, which is around \$470,000.

(B) Recurrent cost for implementation of the revised regulatory regime:

When the revised regulatory regime is in full swing, it is estimated that there will be around 500 to 1 000 DBLAs, 25 DBLBs and 500 one-off permits in the market. Additional manpower would be required for processing these applications and enforcing the licensing system, including performance of the canine DNA parentage test as described in (A) above.

To cope with the anticipated increase in caseload arising from the implementation of the revised regulatory system, the recurrent cost of \$3.6 million, involving the creation of seven permanent civil service posts, has been included in the relevant Estimates.

(C) Revenue implications

Two new types of licence (DBLA and DBLB) and a new permit (One-off Permit) will be introduced under the revised regulatory regime. The opportunity will also be taken to revise the existing fee for an ATL. The fees for grant and renewal of the licences and grant of the permit are to be charged on the applicants/licensees on the basis of full-cost recovery.

Based on the estimated caseload for the full implementation of the revised regulatory regime, it is projected that government revenue will be increased by about \$0.9 million per annum.

**Summary of Views Received
during the Public Consultation**

Overall feedback

The public consultation on Government's proposals to better regulate pet trading was held from October to November 2012. Around 2 700 responses were received.

2. The proposed measures to enhance regulation on pet trading as stated in the consultation document has received very strong support (85%). Animal welfare organizations such as the Society for the Prevention of Cruelty to Animals, the Society for Abandoned Animals Limited, the Hong Kong Rescue Puppies, the Hong Kong Dog Rescue, Animals Asia Foundation and the Hong Kong Society of Herpetology Foundation have also expressed general support for the Government's proposals.

(A) Proposals to regulate the breeding of dogs for sale

3. The proposal of removing the exemption that a person may sell his own pet (and his pet's offspring) without an Animal Trader Licence (ATL) has received strong support (83%).

4. Some respondents (10%) suggest that the proposal should also cover cats for the reason that cats are also a common kind of pet. They express worry that illicit breeding of cats will increase if the legislative amendment is passed.

5. Some respondents (19%) object to the introduction of Animal Breeder Licence Category A (ABLA) (now renamed as Dog Breeder Licence (Category A) (DBLA)). They are of the view that the Government should not provide a channel for persons who keep not more than four female dogs on one premises and sell their breeding dams or offspring of these dogs (hobby-breeder) to operate. They hold the view that it is often hard to regulate operating conditions of the breeding premises of such hobby breeders, which in most cases are accommodated in residential buildings. Hence, animal welfare is likely subject to compromise. They suggest that

all breeders should be subject to the more stringent Animal Breeder Licence Category B (ABLB) (now renamed as Dog Breeder Licence (Category B) (DBLB)) to discourage hobby breeding.

6. Some respondents (5%) object to the introduction of the one-off permit, which is designed for genuine pet owners who sell individual dogs that they own. Despite the safeguards we have proposed against abuse, these respondents are of the view that the proposal is tantamount to the Government endorsing pet trading by private pet owners.

(B) To provide DAFC with power to cancel ATL for offences under Cap. 169

7. This proposal has received a good measure of support (82%). The majority of the respondents agree that unsuitable persons should be excluded from running a business in which the persons would have direct control over animals. A small number of respondents (6%) have expressed worry that an individual may re-apply for the licence after cancellation. They propose that the individual should be prohibited perpetually from applying for licences issued under Cap. 139B.

(C) Proposal to increase penalties under Cap. 139B

8. The majority of the submissions that commented on this proposal are supportive (79%). Some respondents consider that this will serve more effectively to deter animal traders and breeders from breaching the regulations, and thus offering better protection to animal welfare and public health.

9. Some respondents propose to further increase the penalties. Some even suggest that imprisonment should be a sentencing option to achieve greater deterrence.