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Panel on Food Safety and Environmental Hygiene

Subcommittee to Study Issues Relating to Animal Rights

**Background brief prepared by the Legislative Council Secretariat for the
meeting on 17 January 2017**

Prevention of Cruelty to Animals Ordinance

Purpose

This paper provides background information on the Prevention of Cruelty to Animals Ordinance (Cap. 169) ("PCAO"). It also summarizes the major views and concerns expressed by the Legislative Council ("LegCo") Members on issues relating to the definition of cruelty to animals and the relevant penalty under PCAO.

Background

2. PCAO is a centre-piece legislation for the protection of animals, it not only safeguards animals against acts of cruelty, but also imposes a duty of care requirement on animal owners or keepers. Under PCAO, cruelty to animals includes cruelly beating, kicking, ill-treating, torturing, infuriating, or terrifying any animals to cause unnecessary suffering to them. Cruelty to animals also covers the improper carriage of animals and putting animals in captivity. Anyone who fails to supply animals with sufficient food and fresh water or causes unnecessary suffering to an animal commits an offence. The Prevention of Cruelty to Animals Regulations (Cap. 169A) made under PCAO also set out the basic requirements for keeping animals in confinement or during transport, contravention of which may constitute an offence notwithstanding that the animal has yet to be harmed.

3. Any person who commits an offence under PCAO shall be liable on conviction to a fine of \$200,000 and imprisonment for three years. According to the Administration's reply to a written question raised by Mr CHAN Hak-kan at the Council Meeting of 9 November 2016, the number of animal cruelty reports received by the Hong Kong Police Force ("the Police") and prosecutions initiated by the relevant departments under PCAO in recent years were as follows:

	Number of reports received by the Police	Number of prosecutions*
2012	63	19
2013	120	20
2014	77	29
2015	58	11
2016 (January to June)	32	4

(* As advised by the Administration, due to progress of investigation and other factors, the year of reports received and that of prosecutions may be different)

4. According to the Administration, relevant government departments will take enforcement action under PCAO where circumstances warrant. Both the Police and the Agriculture, Fisheries and Conservation Department ("AFCD") will investigate into cases of cruelty to animals and institute prosecution. Where necessary, AFCD will provide professional veterinary advice, while the Food and Environmental Hygiene Department will assist in handling environmental hygiene issues and dead animals. The Society for the Prevention of Cruelty to Animals has set up a 24-hour enquiry hotline for such cases and it will also provide medical treatment to the animals and facilitate law enforcement officer in their work.

Members' major views and concerns

5. Members' major views and concerns on the subject are summarized in the ensuing paragraphs.

Definition of cruelty to animals

6. Some Members considered that the Administration should comprehensively review and amend, as and where necessary, PCAO, including reviewing the definition of cruelty to animals. The Administration was recommended to make reference to animal protection legislation in developed countries/places in reviewing PCAO.

7. In response to Members' concern, the Administration had undertaken to review the definition of cruelty to animals as defined in PCAO, by drawing reference to practices adopted in other places, such as the United Kingdom, the United States, Australia, Japan, Singapore and Taiwan. According to the Administration's reply to a written question raised by Mr CHAN Hak-kan at the Council meeting of 9 November 2016, the definition of acts of cruelty to animals under PCAO was comparable to that adopted in some overseas jurisdictions (e.g. Singapore).

8. There was a view that the Administration should consider making animal abandonment an offence under PCAO and introducing punitive measures against acts of animal abandonment. The Administration advised that abandonment of animals was an offence under the Rabies Ordinance (Cap. 421) which stipulated that a keeper of any animal who, without reasonable excuse, abandoned that animal committed an offence and was liable on conviction to a fine of \$10,000 and to imprisonment for six months. While relevant government departments would continue to enforce the law diligently, the Administration considered that public education was most important for safeguarding and promoting animal welfare. AFCD had established a dedicated team to coordinate publicity efforts in this regard.

Penalty levels under PCAO

9. Noting the increasing number of cases of animal cruelty and animal abandonment reported to the Police in recent years, Members were concerned about whether the welfare and interests of animals were well protected under the existing laws. Some Members considered that the current penalty levels might not have sufficient deterrence against acts of animal cruelty.

10. The Administration advised that the penalty was substantially increased to a fine of \$200,000 and to imprisonment for three years in 2006 to strengthen deterrence against cruelty to animals. Since then, the heaviest sentence handed down by the court for convicted cases under PCAO was imprisonment for 16 months. The level of penalty imposed by the court was generally higher than what used to be the case before the penalty provisions under PCAO was amended in 2006 and the current maximum penalty under PCAO was heavier than that of our neighbouring regions (e.g. Singapore and Japan). In the Administration's view, the current penalty levels provided sufficient deterrence against acts of animal cruelty. Apart from penalties with substantial deterrent effect and appropriate sentencing, the most effective way to reduce the number of animal cruelty cases was to enhance public awareness of respect for life and care for animals. The Administration would continue to step up its efforts in public education.

11. There was a suggestion that a blacklist of persons convicted of offences under PCAO should be drawn up to permanently forbid those on the list from keeping any animals. The Administration considered the nature of the proposal controversial and its feasibility had to be considered carefully before a firm view was to be taken.

Relevant papers

12. A list of relevant papers available on the LegCo website is in **Appendix.**

Council Business Division 2
Legislative Council Secretariat
12 January 2017

**Relevant papers on
Prevention of Cruelty to Animals Ordinance (Cap.169)**

Committee	Date of meeting	Paper
Legislative Council	23.1.2013	<u>Official Record of Proceedings Pages 5174 to 5179 (written question raised by Hon Claudia MO on "Measures preventing cruelty to animals")</u>
	20.3.2013	<u>Official Record of Proceedings Pages 7591 to 7597 (written question raised by Dr Hon Helena WONG on "Prevention of cruelty to animals")</u>
	16.10.2013	<u>Official Record of Proceedings Pages 626 to 628 (written question raised by Dr Hon Helena WONG on "Combating Crimes of Cruel Treatment of Animals")</u>
	6.11.2013	<u>Official Record of Proceedings Pages 1796 to 1807 (oral question raised by Hon Michael TIEN on "Prevention of Cruelty to Animals ")</u>
	19.2.2014	<u>Official Record of Proceedings Pages 7224 to 7227 (written question raised by Hon CHAN Hak-kan on "Prevention of Cruelty to Animals")</u>
	10.6.2015	<u>Official Record of Proceedings Pages 12827 to 12833 (written question raised by Hon James TO on "Animal Welfare")</u>

Committee	Date of meeting	Paper
Legislative Council	17.6.2015	Official Record of Proceedings Pages 13128 to 13138 and A4 to A5(oral question raised by Hon CHAN Hak-kan on "Protection of Animals' Rights")
	28.10.2015	Official Record of Proceedings Pages 535 to 540 (written question raised by Hon CHAN Hak-kan on "Animal Abandonment")
	1.6.2016	Official Record of Proceedings Pages 10906 to 10911 (written question raised by Hon CHAN Hak-kan on "Promotion of Animal Welfare and Prevention of Acts of Cruelty to Animals")
Panel on Food Safety and Environmental Hygiene	-	Report of the Subcommittee on Issues Relating to Animal Welfare and Cruelty to Animals
Legislative Council	9.11.2016	Official Record of Proceedings Pages 311 to 315 (written question raised by Hon CHAN Hak-kan on "Efforts to combat crimes of cruelty to animals")

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