

**For discussion  
on 31 October 2017**

**LegCo Panel on Food Safety and Environmental Hygiene  
Subcommittee to Study Issues Relating to Animal Rights**

**Implementation of the Public Health (Animals and Birds)  
(Trading and Breeding) Regulations (Cap. 139B)**

**INTRODUCTION**

This paper briefs members on the progress of implementation of the regulatory regime under the Public Health (Animals and Birds) (Trading and Breeding) Regulations (Cap. 139B) (“Regulations”).

**BACKGROUND**

2. The Regulations, superseding the Public Health (Animals and Birds) (Animal Traders) Regulations, commenced operation on 20 March 2017 (“commencement date”) to provide for a revised licencing regime to regulate not only animal trading but also dog breeding and selling. Under the Regulations, the Animal Trader Licence (ATL), which has been in place before commencement of the Regulations, continues to be issued for any person who sells, or offers to sell, dogs and/or other animals or birds (not kept as a pet or the offspring thereof) at premises, but does not keep dogs for breeding. Major changes introduced in the Regulations are summarised below.

(a) In addition to ATL, two types of licence and one type of permit have been introduced, namely:

(i) Dog Breeder Licence Category A (DBLA) for any individual who keeps four or fewer female dogs for breeding purposes at premises, and sells, or offers to sell, those breeding dams or their offspring. Any individual may hold only one DBLA at any one time;

- (ii) 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 premises, and sells, or offers to sell, those breeding dams, their offspring or dogs from other approved sources; and
- (iii) One-off Permit (OOP) for any licensed dog keeper who sells, or offers to sell, his / her dog. A maximum of two OOPs can be granted to any individual within any four-year period.

In sum, no person is permitted to sell dogs except under an ATL, DBLA, DBLB or OOP.

- (b) All the licences and OOP issued under the Regulations prohibit the holder from selling a dog to any person under the age of 16.
- (c) The Director of Agriculture, Fisheries and Conservation may refuse to grant or renew, or may cancel a licence, if he is not satisfied that the applicant or licensee, as the case may be, is a suitable person to hold the licence. He is also empowered to exempt a person from the requirement to obtain an ATL if he is satisfied that the person is conducting genuine rehoming for animal welfare purposes on a non-profit-making basis.
- (d) The penalty levels for contravention of the Regulations have been increased. The maximum penalty for carrying on a business as an animal trader without ATL has been increased from a fine of \$2,000 to \$100,000. This maximum penalty level also applies for any person who sells, or keeps for breeding and sells, a dog without a licence or OOP. The maximum penalty for contravening a condition attached to a licence or OOP has been increased from a fine of \$1,000 to \$50,000.

3. ATL, DBLA and DBLB are all tied to specific premises, and will be granted with licence conditions attached, including regulatory requirements for the licensed premises as stipulated in the Regulations, the sources of dogs for sale, and procedures of the sale of dogs (e.g. requiring

the licensed dog breeders to make a declaration regarding the maternal relationship of the dogs bred for sale). All licensees must comply with the Codes of Practice (CoPs) of the respective licences, which set out detailed requirements for the licensed premises such as the space requirements for dog keeping. The CoPs also place a duty of care on the licensee to safeguard the welfare of the dogs. A breach of the CoPs may be considered as a breach of the licence conditions, subjecting the licensee to prosecution. Further information has been set out in LegCo Brief issued in May 2016 (Ref.: FH CR 3/3231/07).

4. This paper focuses on the dog trading and breeding activities in the light of the strengthened regulation of sale and breeding of dogs since implementation of the Regulations.

## LICENCE AND PERMIT APPLICATIONS

5. The number of licence and OOP applications since the commencement date up to 30 September 2017 are tabulated below.

Type		Number of applications received@	Number of applications approved	Number of applications under process
ATL^	Dogs	56	40	11
	Others	183	160	22
DBLA		18	6	8
DBLB		27#	6	18
OOP		1	1	Nil

*Remarks:*

@ 12 applications (including 3 DBLA applications, 3 DBLB applications, 5 ATL applications for sale of dog and 1 ATL application for sale of other animals) have been withdrawn by the applicants. One DBLA application has been rejected by AFCD.

^ Includes renewal of ATL as well as new applications.

# Includes 6 applications from existing ATL holders with licences issued prior to the commencement date. These licensees are required to obtain a DBLB upon the expiry of their ATL should they wish to continue their dog breeding and selling activities at the existing premises. The remaining 21 applications are meant for dog breeding / selling at new premises.

6. Upon receipt of a licence application, officers of AFCD will visit the relevant premises to conduct a preliminary inspection and assess the suitability of the premises in the light of the requirements of the regulations and CoPs. A background check for prior convictions of the applicant under relevant legislation will also be conducted to determine whether the applicant is a suitable person to hold the licence. If the premises do not meet the standards required, AFCD will advise the applicant on the necessary remedial work, and conduct further inspections as necessary until the required standard is attained. A final round of on-site inspection will be conducted by a Veterinary Officer of AFCD before approving an application.

## **ENFORCEMENT ACTIONS**

7. AFCD has conducted a total of 2 400 inspections for both new applications and regular inspections of licensed premises, averaging around 400 each month. Upon receipt of complaints relating to licensed premises, AFCD will also conduct additional inspections as appropriate.

8. Since 2010, a dedicated investigation unit has been established under AFCD with the remit to monitor advertisements for animal trading and boarding activity on the Internet, and respond to related complaints. The investigation unit conducts regular inspections to shops selling pet accessories and/or offering pet-related services such as grooming, to prevent and detect any illegal trading activity. The unit also proactively looks for 'dogs for sale' advertisements posted on the Internet and follows up all cases of selling dogs without a licence or OOP. When any suspicious illegal activity is detected, the unit will conduct further investigation (including decoy operations) in order to collect evidence for possible prosecutions.

9. From the commencement date up to 30 September 2017, a total of 90 complaints have been received about offers to sell a dog without a licence or OOP on the Internet, and 17 decoy operations have been conducted by AFCD. As at 30 September 2017, three cases of dog selling without OOP have been prosecuted, with all three offenders convicted and

fined<sup>1</sup>. Investigations into 13 cases are ongoing and may be prosecuted having regard to the evidence gathered. One case has been dropped.

## **WAY FORWARD**

10. AFCD will continue to take vigorous enforcement actions to deter illegal dog breeding and selling activities. We believe that, with the licensing regime and vigorous enforcement actions, dog breeding and selling activities would be properly regulated to safeguard the dogs' welfare and public health. In parallel, AFCD will continue to conduct a series of education programmes, via different media and publicity channels, to remind the public to be a responsible pet owner, to think carefully before keeping a pet, and to consider adoption in lieu of purchasing pet.

## **ADVICE SOUGHT**

11. Members are invited to note the latest progress on the implementation of the Regulations.

**Food and Health Bureau**  
**Agriculture, Fisheries and Conservation Department**  
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<sup>1</sup> In two cases, the offenders were convicted and fined for dog selling without OOP under the Regulations and for keeping dogs over the age of five months otherwise than in accordance with a licence granted under the Rabies Regulations (Cap. 421A). The total fines for those cases are \$5,800 and \$7,500 respectively. The person involved in the third case was convicted for dog selling without OOP and fined \$5,000.