

**For discussion
on 8 February 2021**

**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)**

PURPOSE

This paper briefs Members on the implementation of the Public Health (Animals and Birds) (Trading and Breeding) Regulations (Cap. 139B).

BACKGROUND

2. Cap. 139B was last reviewed and amended in March 2017 to better regulate pet trading. Before enactment of Public Health (Animals and Birds) (Animal Traders) (Amendment) Regulation 2016 (the Amendment Regulation), while an animal trader was required to obtain an Animal Trader Licence (ATL) issued by the Director of Agriculture, Fisheries and Conservation (DAFC), a person who sells his or her own pet (self-claimed private pet owner or PPO) was exempted from the licensing requirement. This exemption had been exploited by commercial breeders operating under the guise of private pet owners, circumventing regulation through licensing conditions¹ and leading to public health and animal welfare concerns. This phenomenon had been shown to be particularly problematic in the case of dogs. In cases investigated by Agriculture, Fisheries and Conservation Department (AFCD), it was revealed that the welfare conditions of dogs kept on the premises of some of the PPOs were far from satisfactory. In some cases, dogs were kept inside cages barely large enough for them to move around, and there was not a sufficiently large exercise area provided. It was considered necessary to amend Cap. 139B to better regulate the breeding and trading of dogs. Under the Amendment Regulation, the exemption that a person may sell his or her own dog was removed, and no person may sell, or offer to sell, a dog except in accordance with a licence or permit². Relevant licences/permit for selling a dog are –

¹ Including requirements on housing facilities, hygiene of the premises and the health status of the breeding dogs.

² Under Section 5A of Cap. 139B, if the Director of Agriculture, Fisheries and Conservation and any Assistant Director of Agriculture, Fisheries and Conservation are satisfied that a person is conducting genuine rehoming activities for animal welfare purposes on a non-profit-making basis, that person may be exempted from holding an ATL.

- i) **Animal Trader Licence (ATL)** – for selling (but not breeding) dogs from permitted sources at the single licensed premises registered on the licence concerned;
- ii) **Dog Breeder Licence (Category A) (DBLA)** – for any individual keeping 4 or fewer female dogs for breeding purpose and selling those dogs or their offspring at the single licensed premises registered on the licence concerned;
- iii) **Dog Breeder Licence (Category B) (DBLB)** – for any individual keeping more than 4 female dogs (up to the limit provided for in the licence) for breeding purpose and selling those dogs or their offspring or dogs from other approved sources at the single licensed premises registered on the licence concerned; and
- iv) **One-off Permit (OOP)** – for any dog owner who sells a dog, which the dog owner keeps as the licensed keeper of that dog³.

3. Besides, a number of other improvement measures such as increasing the maximum penalties for illegal trading of animals and breaching the licensing conditions⁴ and providing DAFC with a power to amend or revoke, or to refuse to grant or renew a licence issued under Cap. 139B, if a person is considered not suitable to hold such licence, were also introduced in 2017.

IMPLEMENTATION OF THE AMENDMENT REGULATION

Number of Licences and Permits

4. The Amendment Regulation aimed to enhance regulatory control over the breeding and sale of dogs by requiring all such activities to be conducted under a licence or permit. It allows AFCD to better monitor and regulate the sale process of licence/permit holders, and help safeguard the health and welfare of dogs at different stages. AFCD also introduced DNA parentage testing arrangements to verify that dogs sold by licensed dog breeders are the true offspring of the breeding dogs at the premises. The number of licences and permits before and after enactment of the Amendment Regulation are tabulated in the table below.

³ The dog owner concerned must have had the dog licensed under his/her name for a minimum of four consecutive months immediately before the date of application and only two permits may be issued to the same person within any four-year period.

⁴ The maximum penalty for any person who sells, or keeps for breeding and sells, a dog without an ATL, DBLA, DBLD or OOP was raised from a fine of \$2,000 to \$100,000. The maximum penalty for contravention of a condition attached to a licence or permit was also raised from a fine of \$1,000 to \$50,000.

Type of licence/permit		As at Mar 2017	As at Dec 2020
ATL	Dogs	119	44
	Others	283	240
DBLA		NA	6
DBLB		NA	25
OOP		NA	8 ⁵
No. of dogs sold by dog traders with ATLs (in the preceding 24-month period)		7 974	5 210

5. During the public consultation for the Amendment Regulation, concerns were raised by some Animal Welfare Organizations that the regulation of dog breeders, especially DBLA with less stringent requirements⁶, might encourage more people to apply for licences, leading to increased dog trading activities which might run counter to the promotion of pet adoption. There was also a concern that the introduction of the one-off permit might encourage more people to sell their pet dogs. However, such trends have not been observed. The total number of dogs sold by pet shops with ATLs had in fact decreased and the number of DBLA holders attributed to only a small proportion of the overall licence holders. Furthermore, as at December 2020, only eight one-off permits have been issued since the enactment of the Amendment Regulation, hence the introduction of the permit has not become an incentive for selling one's own pet dog.

Enforcement Actions

6. Under the revised regulatory regime, enforcement against illegal dog trading was enhanced. A dedicated investigation unit under AFCD 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 advertisements posted on the Internet and follows up cases of dog selling without a licence or OOP. When a suspicious activity is detected, the unit will conduct further investigation including decoy operations to collect evidence for possible prosecutions. Since enactment of the Amendment Regulation, AFCD has conducted a total of 1 581 inspections on

⁵ This refers to the number of OOPs issued since the enactment of the Amendment Regulation. An OOP is valid for 6 months.

⁶ DBLA holders breed a relatively smaller number of dogs than DBLB holders and are sometimes referred to as "hobby-breeders" or "home-breeders" who keep their dogs as pets and live with them in a household. They are subject to less stringent accommodation requirements than DBLB holders.

licensed DBLA/DBLB premises and new applicants. Additional inspections would be conducted as appropriate upon receipt of complaints. During the period between January 2018 and December 2020, there were 92 convictions for contravention of Cap. 139B in relation to dog trading and breeding⁷. A comparison on the number of convictions and penalties imposed before and after enactment of the Amendment Regulation is tabulated in the table below.

	Apr 2015 to Mar 2017	Jan 2018 to Dec 2020
No. of convictions on contravention of Cap. 139B in relation to dog trading and breeding	5	92
Penalties imposed	\$1,000 – \$2,000	\$600 – \$20,000

7. In terms of monitoring dog breeding activities, under the new regulatory regime, all dogs sold under ATL must be accompanied by proof of legal source⁸. Since licenced premises are regulated by a Code of Practice (CoP) promulgated by AFCD, as part of the DBLA or DBLB license conditions, the health and welfare of the dogs can be better safeguarded. The CoP sets out detailed requirements for the licensed premises and care of the dogs to ensure good welfare, including training requirements for staff, space requirements for dogs, exercise requirements, details on feeding, grooming and preventive care for the dogs. A breach of the CoP may be considered as a breach of the licence conditions, subjecting the licensee to prosecution.

WAY FORWARD

8. AFCD will continue to take vigorous enforcement actions to deter illegal dog breeding and sales and monitor the licensing system under Cap. 139B. In parallel, we will continue promoting messages on caring for animals and responsible pet ownership and organising educational activities to raise awareness of animal welfare.

⁷ This refers to the sale of dogs by any person without a licence or permit (i.e. ATL issued before enactment of the Amendment Regulation, and ATL, or DBLA or DBLB or OOP issued after enactment of the Amendment Regulation).

⁸ Under the licence conditions, all dogs for sale or offered for sale must only belong to four categories stipulated in the conditions –

- (i) Legally imported, accompanied by a valid import permit/special permit issued by AFCD and valid health certificate issued by the veterinary authority of the exporting place;
- (ii) Offspring legally bred by a licensed dog breeder;
- (iii) Acquired from a permittee of a One-off Permit; or
- (iv) Acquired from a licensed animal trader (i.e. holder of ATL)

ADVICE SOUGHT

9. Members are invited to note and comment on the contents of this paper.

**Food and Health Bureau
Agriculture, Fisheries and Conservation Department
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