

**Subcommittee on
Resolution under section 3 of the
Dogs and Cats Ordinance (Cap. 167) and
Dogs and Cats (Amendment) Ordinance 1997 (97 of 1997)
(Commencement) Notice 1999**

At the meeting on 3 September 1999, the Administration was requested to consider Members' concerns on various sections of the proposed Dangerous Dogs Regulation. Our responses are set out below -

Sections 3 and 4: Members are concerned that a person who legally owns a fighting dog in Hong Kong and brings his dog for a trip outside Hong Kong, e.g. a boat trip, will inadvertently commit an offence when they return home.

2. We have no objection to not applying sections 3 and 4 to fighting dogs licensed in Hong Kong. We will amend sections 3 and 4 to exempt people from liability under these sections if the fighting dogs are licensed under section 19A of the Rabies Regulation (Cap.421 sub.leg).

Sections 7(b) and 9(b): On the requirement for a fighting dog or a large dog to be held on a leash in a public place by a person not under the age of 16 years, Members are of the view that the age of 16 has been arbitrarily set and the requirement is too strict. They have therefore requested for justification and re-consideration of the Administration. They consider that a person of an age under 16 could be physically strong enough to control his dog. They are also aware that such requirement will prohibit a person under 16 to take a large dog or a fighting dog which is muzzled to cross a road to a country park where dogs could walk off leash. Members have also expressed concern that a person might inadvertently commit an offence if he leaves a dog leashed on a pole in a public place for urgent business .

3. The Administration has no objection to removal of the reference to age for the person controlling any of the three categories of dogs in public places (sections 7(b), 9(1)(b), 9(2) and 12(b)).

4. Under section 9(2), the Administration is prepared to allow tying of large dogs in outdoor public places provided that this does not endanger public safety, animal safety or welfare of the dogs. As fighting dogs are aggressive in nature and known dangerous dogs have demonstrated their aggressive

behaviour, we do not consider it appropriate to leave these dogs tied and unattended in public places.

Section 10(2)(c): Members have requested the Administration to clarify the meaning of “provocation of any form” in the Dangerous Dogs Regulation.

5. “Provocation of any form” means an act in whatever form which is likely to give rise to physical retaliation. It is reasonable to provide dogs and their owners with protection in the law against provocation.

Section 14(1)(b): Members have requested the Administration to clarify the circumstances under which a dog keeper is required to deliver the dog for detention.

6. Section 14 is qualified by “For the purposes of the Ordinance or this Regulation”. The power may only be exercised for these limited purposes. Section 15 provides an appeal mechanism for those aggrieved by any direction given.

7. It is not possible to specify every situation in which the power to detain a dog would be exercised. One example would be detention of a recently declared known dangerous dog whose owner does not have a suitable place in which to restrain it.

Section 19: Members have requested that the Schedules when amended should be subject to the positive vetting of the Legislative Council;

8. There are three Schedules in this Regulation. Schedule 1 lists the types of dogs, which are regarded as fighting dogs. Schedule 2 specifies the weight of large dogs. Schedule 3 specifies the detention fee. We have no objection to Members’ proposal that amendments to Schedules 1 and 2 be subject to positive vetting. As amendments to Schedule 3 would only involve fee revision to reflect cost, we consider it appropriate to subject such amendments to negative vetting.

Section 20(2)(a): the Administration could consider refining the wordings to clarify the discretionary decision of the Director in giving the ex-gratia payment to the dog keeper.

9. The Director may only pay a sum of \$3,000 subject to compliance with the conditions stated in section 20(2)(b). The discretion given to him is not unfettered. He has to exercise the power in a reasonable manner.

Section 20(2)(b): Members have suggested that the Administration clarify whether a new bred fighting dog is eligible for the ex-gratia payment.

10. New bred fighting dogs will be entitled to the ex-gratia payment if immediately before the commencement of the Regulation, the dog is present in Hong Kong and the keeper holds a valid licence granted under section 19A of the Rabies Regulation (Cap. 421 sub. Leg.) in respect of the dog. Unborn pups would not be eligible for payment.

The Administration could also consider allowing a transitional period for dog keepers to familiarize with the new Dangerous Dogs Regulation before the penalty is actually put into force.

11. We have no objection to providing a transitional period for large dogs. However, given the aggressive nature of fighting dogs and known dangerous dogs and the need to avoid profiteering under section 20(2)(a), we intend to commence the sections concerning these two categories of dogs shortly after the enactment of the Regulation.

Economics Services Bureau
4 October 1999