

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

Submissions on the Dangerous Dogs Regulation

Introduction

Between 20 and 25 October 1999, the Administration received four further submissions on the Dangerous Dogs Regulation (the Regulation). We note that the Chinese University of Hong Kong supports any ordinance that controls dangerous dogs in Hong Kong and makes the urban and rural environment safe for people. Our responses to the comments raised in the other submissions from the Hong Kong Veterinary Association (HKVA), the Society for Prevention of Cruelty to Animals, the Hong Kong Kennel Club, the International Fund for Animal Welfare, the Animals Asia Foundation, the Puppywatch, and a few individuals are set out in the following paragraphs for Members' consideration.

The 20-kilogram limit is arbitrary and could be abused by departmental officers, resulting in either the law being enforced in a draconian manner or not at all. The measures will not reduce the incidence of dog bites in public places.

2. The 20-kilogram weight criterion was selected to cover a high percentage of chow and mongrel dogs in response to requests from legislators. According to its statistics, AFD estimates that dogs over 20 kilograms have caused 74% and 70% of 3 075 investigated dog bite incidents in 1997/98 and 1998/99 respectively.

3. According to Hospital Authority data, over 4 000 dog bite cases are presented to hospitals for treatment a year. The Agriculture and Fisheries Department (AFD) estimates that at least 30% of these occur in public places (about 1,200 cases per year). It further estimates that of these, approximately 2% (>20 cases) are serious, requiring hospitalisation of the patients. From July 1995 to March 1999, there were 32 dog bite cases investigated by AFD

resulting in the victims being hospitalised for seven days or more. Based on their typical weights, the dogs involved in these 32 cases were estimated to weigh from five kilograms to over 70 kilograms, with more than 80 per cent of them being over 20 kilograms.

4. AFD would ensure uniform and consistent enforcement of the Regulation, if passed. The 20-kilogram weight criterion is quantifiable and would require subsequent confirmation by measurement as in other legislation, thus reducing the likelihood of arbitrary enforcement. Moreover, training and enforcement guidelines would be provided to AFD officers prior to implementation of the Regulation. Furthermore, the appeal mechanism under Section 15 of the Regulation provides a check against “draconian” enforcement, if any.

5. The control measures proposed under the Regulation are not onerous and are consistent with those imposed on dogs in similar situations elsewhere in the world. They would cause minimal inconvenience to dog owners and have no welfare implications for their dogs. For large dogs, muzzling will only be required when they are in transit through common parts of buildings. Similar requirements exist for large dogs on public transport in Melbourne, Australia – a situation akin to that in common parts of buildings in Hong Kong where the public and large dogs are required to share a confined space. Leashing requirements for large dogs are less restrictive than those in many other countries like Australia and Singapore, where it is required for all dogs in public places at all times. Introduction of these measures will provide members of the public with a greater sense of security when encountering large dogs in public places. It will also help to protect people from dog bites in public places.

6. Ultimately, the decision to introduce these measures is a question of balance. Placing public safety first, the Administration believes that any reductions achieved by these measures in the number of bites by large dogs in public places and the number of people requiring reconstructive surgery on bite wounds would far outweigh the minor inconvenience that owners of large dogs may experience.

Wider consultation is recommended on alternative measures. Bodies other than the Animal Welfare Advisory Group should be consulted.

7. All groups concerned with dog welfare and other interested bodies, including District Boards, have been consulted on the proposed control measures. A list of the bodies consulted is attached at Appendix. Ample opportunity has been given for alternatives to be proposed but, so far, no practical suggestions have been forthcoming on the “large dogs” category.

8. The previous Dangerous Dogs Regulation was discussed at length at the former LegCo Bills Committee in 1997. A number of amendments had been made to the previous draft to address Members’ concerns. In particular, consideration had been given to replacing the classification of “potentially dangerous dogs” by breed by a new category of “large dog” by weight. On the request of the then Bills Committee, the Administration had consulted all concerned parties including, amongst others, kennel associations, animal welfare groups and Provisional District Boards on the requirements now before Members. Based on the comments received in the public consultation exercise, the Administration revised the draft Dangerous Dogs Regulation. The revised draft Regulation was submitted to LegCo in June 1999. So far four Subcommittee meetings, including one with deputations from concerned groups, have been held. Since the issues relating to the control of dangerous dogs have been extensively discussed during the consultation process and the subcommittee meetings, we consider that the time has come for a decision on the issue particularly given the public safety angle.

Strays, dogs on building sites and unlicensed “owned” animals are the main offenders. AFD does not have the resources to adequately control the stray dog problem in the New Territories or on building sites. Proper enforcement of existing laws would be a more appropriate measure than imposing controls on properly licensed, well-behaved dogs.

9. AFD advises that of the 3 075 dog bites cases investigated by AFD between 1997 and 1999, over half of the cases involved licensed dogs. The existing legislation is inadequate to control dangerous dogs because it applies to dogs in general without giving adequate consideration to the fact that particular

classes of dogs might inflict more serious injuries. Current legislation does not specifically provide for the prosecution of owners when biting incidents or infringements relating to control of dogs occur in the common parts of private estates. Furthermore, under the current legislation, a dog is required to be on leash or otherwise under control. But experience has shown that it would be difficult in terms of law enforcement to prove that an unleashed dog is not “otherwise under control”. This is particularly relevant in village situations where owners often claim they are in control of their dogs even though the dog is in a public place. The proposed control measures on large dogs, would provide for improved control in such situations.

10. In parallel, AFD has recently formed an animal management division to step up actions to control stray dogs. Four regions, each headed by a veterinary officer, have been established to provide better management of resources, a regional and community focus for stray control and prevention operations, and to improve liaison with village representatives. Additional field officers have been deployed to investigate “stray animal black spots” (including villages and construction sites).

11. Concurrently, AFD has also stepped up operations on building sites, through co-operation with site managers and construction workers, to help ensure that the dogs are properly licensed and are not abandoned after the completion of the construction works.

The ex-gratia payment of \$3,000 is excessive and will provide opportunities for profiteering. Punitive action should be taken under Sections 4, 5 and 6 to deter false representation.

12. Measures to prevent false representation and profiteering are included in the Regulation and further provisions are not considered necessary. Under Section 20 of the Regulation, the dogs must be present in Hong Kong and licensed at the time of commencement of the Regulation in order to be eligible for the ex-gratia payment. Moreover, any fighting dogs surrendered for ex-gratia payment are required to be classified by the Dogs and Cats Classification Board before payment is made to the keeper of the dog. Members may wish to note that the number of fighting dogs licensed has not increased since 1996.

13. AFD further considers that the ex-gratia payment of \$3,000 for the surrender of a fighting dog is appropriate because this type of dog is usually well-trained and costs around \$8,000 or more per dog.

Muzzles must be properly used to be effective and to ensure the welfare of the animal is not compromised.

14. AFD has prepared guidelines to educate dog owners on proper use of muzzle while taking care of dog welfare. The rationale for muzzling is that large dogs and people are forced to share confined spaces in buildings in Hong Kong. The muzzling requirement will only affect dogs for a short time while they are in transit between their dwelling and outdoor. Many members of the public would experience a sense of security when they know that a large dog in close proximity is unable to bite. If passed, the controls on large dogs will only be implemented after a transitional period, allowing owners time to learn how to fit muzzles correctly.

HKVA proposed as an alternative that all dogs be kept on a very short leash in indoor public place and be kept on a longer leash in outdoor public place.

15. The above proposal extends controls to even more dogs than that proposed in the Regulation (for example, “lap dogs” that are usually carried). The Administration does not consider that such an extension is necessary at this stage.

Owners of dogs who dispute the decision of the Dogs and Cats Classification Board must have full recourse to the courts for adjudication.

16. The intent in forming the Dogs and Cats Classification Board is that it would have expertise in breed identification. In making decisions, the Dogs and Cats Classification Board must ensure that those presenting dogs for classification are not denied natural justice. Otherwise, the case would be subject to judicial review.

Laws concerning domestic animals in Hong Kong are in need of review. If the Dangerous Dogs Regulation is passed AFD will not be under any obligation to continually review these laws. Penalties need to be greater.

17. The laws concerning domestic animals are kept under constant revision to meet community expectations. The Dangerous Dogs Regulation has been introduced to tackle a specific public safety issue. Review of two other regulations is in progress to provide for more severe penalties for cruelty to animals and to introduce tighter controls on dog breeding establishment.

Economic Services Bureau /
Agriculture Fisheries Department
15 November 1999

**Bodies consulted on
the Dangerous Dogs Regulation**

1. Government Departments Statutory Bodies
 - Health Department
 - Urban Services Department
 - Regional Services Department
 - Hong Kong Police Force
 - The Law Society of Hong Kong
 - Hong Kong Bar Association
2. Veterinary Association
 - Hong Kong Veterinary Association
 - China (Hong Kong) Veterinary Association
3. Major Animal Feed And Veterinary Supply Companies
 - C Vetapet & Co.
 - Iceville Ltd. Hong Kong
 - Hill's (New Champion) Trading Co.
 - United Aquarium & Pet Supply Co. Ltd.
 - Unipet House Co. Ltd.
 - Natural Life Pet Products Inc.
4. Livestock Farmers Organization
 - Hong Kong Graziers Union
 - Hong Kong Pig Farm Association
 - The H.K. Livestock Industry Association
 - Hong Kong N.T. Poultry Culture (Geese & Ducks) Mutual Association
 - The New Territories Chicken Breeders Association Limited
 - The Federation of Pig Raising Co-operative Societies of Hong Kong, Kowloon and New Territories Limited

5. Animal Welfare and Related Groups
 - Society of the Prevention of Cruelty to Animals
 - World Wide Fund for Nature (HK)
 - Puppy Watch
 - The Asia Representative, International Fund for Animal Welfare
 - Earthcare

6. Pet Traders and Animal Associations
 - Hong Kong Kennel Club Ltd.
 - Hong Kong Pets Association Ltd.
 - Hong Kong & Kowloon Kennel Association Limited
 - Self Discipline (Master of Dog) Association of Hong Kong
 - Hong Kong Cat Society
 - Hong Kong Canine Association
 - International Fund for Animal Welfare
 - My Pet Club
 - Hong Kong Collie Club
 - Hong Kong Macau Kennel Club
 - Hot Dog Club

7. Academic Institutes
 - City University of Hong Kong
 - Hong Kong Baptist University
 - Lingnan College
 - The Chinese University of Hong Kong
 - The Hong Kong Polytechnic University
 - The Hong Kong University of Science and Technology
 - The University of Hong Kong
 - The Hong Kong Institute of Education

8. District Board
 - 18 District Boards in Hong Kong, Kowloon and New Territories

9. Animal Welfare Advisory Group (AWAG)

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Introduction

On 1 November, the Administration received a further submission from the Hong Kong and Kowloon Kennel Association Ltd (HKKKA). Our responses to the submission are set out in the following paragraphs for Members' consideration.

Issues raised in the submission

The world renowned kennel clubs, e.g. Kennel Club of Great Britain and American Kennel Club do not classify dogs as “fighting dogs”.

2. Although kennel associations may not specifically classify dogs as fighting dogs, the term is well recognised and understood. It is applied to certain “breeds” of dogs bred for fighting that retain the aggressive characters prized in fighting animals.

Dogs have natural instinct to protect themselves and their territory and would defend themselves when necessary. Dogs are induced to fight each other by humans and not because of their aggressive nature.

3. The dogs included in the “fighting dog” category have a predisposition for aggression. These dogs do not recognise normal signals of submission from other dogs when fighting and will often fight to the death. We acknowledge that training can make dogs aggressive. Aggressive dogs that attack people or otherwise put people in fear of attack in absence of provocation of any form are proposed to be classified as “known dangerous dogs” by a magistrate.

A given kind of dog may be used by humans for fighting or gambling but this does not mean that all dogs of the same breed or related dogs should be controlled.

4. There is sufficient evidence to show that fighting dogs have been selected for and retain aggressive tendencies despite there being some variation in their behaviour. The proposed control should therefore be applied to all fighting dogs.

To explain the rationale of including Japanese Tosa, Dogo Argentino and Fila Brasileiro as fighting dogs, given that only one type of fighting dog, namely Pit Bull Terrier is present in Hong Kong. It is likely that more and more dog breeds would be included as fighting dogs.

5. The four fighting breeds listed in Schedule 1 to the proposed Regulation, namely Pit Bull Terrier, Dogo Argentino, Fila Brasileiro and Japanese Tosa, are recognised internationally as having been bred for fighting. They have the common characteristic of attacking without being provoked. Once they attack, they will not respond to signs of submission and may continue attacking until the victim is dead. All these fighting dogs are exceptionally strong and have a predisposition for abnormal aggressiveness. Other countries, including UK, Australia, Holland and Singapore, have legislation to control one or more of these breeds. At this stage, the Administration does not intend to include additional breeds into the “fighting dog” category.

If the Dangerous Dogs Regulation is to be implemented, HKKKA requests Agriculture and Fisheries Department (AFD) to implement a licensing and registration system for dog owners, under which dog owners would be assessed by AFD and professionals for their suitability for keeping a dog. Furthermore, AFD could require owners to acquire mandatory insurance coverage for injury caused by the dog.

6. AFD notes the comments and will continue to explore measures that will help owners to become more responsible for the behaviour of their dogs.

In the 161 dog breeds recognised by the Kennel Club of Great Britain, two-thirds of which have body weights over 20 kilograms. In general, dogs weighing 20 kilograms should be considered as medium sized dogs.

7. The term “large dog” is defined specifically in the draft Regulation to mean any dog of 20 kilograms or above in weight and to cover most Chow and Mongrel dogs. This category may include dogs that breeders regard as “medium-sized” dog. Although two thirds of listed breeds may be over 20 kilograms, the majority of Hong Kong licensed dogs are not. The majority of licensed dogs in Hong Kong are toy breeds and small terriers.

There is existing legislation to control dogs in public places, there is no need to make new Regulation.

8. The existing legislation is inadequate to control dangerous dogs because it applies to dogs in general without giving adequate consideration to the fact that particular classes of dogs might inflict more serious injuries. Current legislation does not specifically provide for the prosecution of owners when biting incidents or infringements relating to control of dogs occur in the common parts of private estates.

HKKKA strongly object to the neutering of dogs, which is a cruel measure.

9. Neutering of pet animals is accepted throughout the world as reasonable and is encouraged for pet animals to reduce the numbers of unwanted animals.

The Government should provide annual funding to support kennel clubs for organising educational activities to promote responsible dog ownership.

10. The Administration will continue to work with animal welfare societies and concerned groups in promoting responsible dog ownership.

Economic Services Bureau /
Agriculture and Fisheries Department
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