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**Paper for the House Committee meeting
on 14 April 2000**

**Report of the 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**

Purpose

This paper reports on the deliberations of the 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 ("the Subcommittee").

Background

2. The Dogs and Cats Ordinance (Cap. 167) ("the Ordinance") was amended by the Dogs and Cats (Amendment) Ordinance 1997 ("the Amendment Ordinance") in June 1997 to provide for improved control over dangerous dogs. Section 3 of the Ordinance as amended provides that the Chief Executive in Council may, with the approval of the Legislative Council, by regulation provide for matters relating to the control of dogs.

3. Prior to the enactment of the Amendment Ordinance, the Bills Committee responsible for the scrutiny of the relevant bill expressed reservation on the proposed classification of dangerous dogs as given in the draft Regulation put before the Bills Committee, particularly on the "potentially dangerous dogs" category. The Bills Committee considered that the category, which was based on certain selected breeds could not reflect fully the types of dogs from which the public should be protected. The Administration undertook to consider the Bills Committee's suggestion of replacing it by a "large dog" category and providing graded levels of control depending on whether they were in indoor or outdoor public places.

4. On 11 June 1999, the Dogs and Cats (Amendment) Ordinance 1997 (97 of 1997) (Commencement) Notice 1999 (L.N. 153) (“the Commencement Notice”) was gazetted, appointing 11 June 1999 as the day on which the Amendment Ordinance comes into effect. The Secretary for Economic Services gave notice at the same time to move a motion under section 3 of the Ordinance at the Council meeting on 7 July 1999 to seek the Legislative Council (LegCo)’s approval of the Regulation. The purpose of the Regulation is to provide for the control and regulation of fighting dogs, large dogs and known dangerous dogs.

The Subcommittee

5. The House Committee agreed at its meeting on 25 June 1999 to form a Subcommittee to study the Regulation as contained in the Resolution as well as the Commencement Notice. The Administration hence withdrew notice for the Resolution to enable the Subcommittee formed to study the Regulation in detail. Dr Hon TANG Siu-tong was elected Chairman of the Subcommittee and the membership list of the Subcommittee is at **Appendix I**.

6. The Subcommittee has held eight meetings with the Administration and has conducted two rounds of consultation with the animal welfare associations, interested organizations and the individuals who made submissions on the Bill in 1996. The Subcommittee has also received their oral representations at two of its meetings. A list of organizations/individuals who have submitted views to the Subcommittee is at **Appendix II**.

Deliberations of the Subcommittee

7. As regards the Commencement Notice, members of the Subcommittee have no objection to the commencement date of the Amendment Ordinance. The Amendment Ordinance hence came into operation on 11 June 1999.

8. The Subcommittee then devoted much of its time to the examination of the Regulation. Members noted that the Regulation has been revised to address some of the concerns raised by the Bills Committee. Apart from maintaining the "fighting dogs" and "known dangerous dogs" categories as originally proposed, the Regulation has put forward a category of "large dogs" to replace the previously proposed “potentially dangerous dogs” category. The Subcommittee has examined the basis for such classifications and the respective control of dogs under these three categories. The Subcommittee has also drawn reference from major cities overseas and considered in detail the views expressed by the deputations. The Administration after considering members’ views has made further revisions to the Regulation as detailed in the following paragraphs

Issues relating to large dogs

Definition of "large dog"

9. The Regulation proposes a "large dog" category together with control measures applicable to them. According to the definition, a "large dog" is any dog exceeding 20 kilogram ("kg") in weight but does not include a fighting dog or a known dangerous dog. All deputations giving views to the Subcommittee have raised queries about using such a weight criterion for new "large dogs" category.

10. According to the Administration's explanation, the 20 kg limit has been established after taking into account the statistics on the breeds of dogs responsible for dog bites in Hong Kong as well as information on the weight of these breeds. According to the statistics, 70% of the 3,075 investigated cases between April 1997 and March 1999 involved large dogs. Besides, all the 14 serious dog bite cases occurring in public places which resulted in hospitalisation of victims were caused by dogs over 20 kg. The Administration estimates that over 50% of these 3,075 cases were caused by local Chow and mongrel. It therefore considers that a 20-kg weight criterion is appropriate in order to cover a high percentage of Chow and mongrel dogs. The Administration has also considered using breed-based classification for control purposes, but concluded that the breed-based system would not be able to cover Chow type and mongrel dogs.

11. The Administration accepts that not all large dogs are dangerous. However, it points out that large dogs are generally more powerful than small dogs. If children are bitten by large dogs, the wounds are more likely to be on the face and neck, which could lead to permanent disfigurement.

12. The Subcommittee notes that two-thirds of dog breeds recognised by the Kennel Club of Great Britain weigh over 20 kg, while only about 30% of the dogs in Hong Kong will fall into the "large dog" category. Members accept that any weight criteria for large dogs would be arbitrary, but note that no other practicable alternative could be put forward. Some members at one stage urged the Administration to defer passing the parts of the Regulation pertaining to "large dog" category and conduct a consultation with the concerned groups until a better alternative could be sought. Nevertheless, the Administration maintained that the Regulation should be considered as one package. Upon the request of the Subcommittee, the Administration agreed to revise the Regulation to the effect that any amendments to the Schedule specifying the weight of large dogs shall be subject to positive vetting of LegCo so that Members could have adequate time to study the amendments.

Control on large dogs

13. Under the original proposal, a "large dog" is required to be fitted with a muzzle in indoor public places, such as lift, passageway or lobby of a housing estate, etc. It is also required to be on a leash not exceeding 1.5 metres long in indoor public places. In outdoor public places, the only requirement is for the dog to be held securely on a leash no longer than 2 metres in length. However, the leashing requirement will not apply to large dogs in country parks or special areas within the meaning of the Country Parks Ordinance (Cap. 208).

14. The Administration has stressed that as dogs and humans (including children) may be co-occupying confined indoor spaces, the muzzling requirement for large dogs is necessary to help safeguard members of the public from serious dog bite injuries. Nevertheless, some members share with the deputations that muzzling of dogs will foster belief that dogs are something to fear and will affect the welfare of the dogs. The Administration finally acceded to members' request and agreed to remove the muzzling requirement for large dogs. The only proposed control for large dogs will be leashing in public places.

15. As regards the leashing requirement, under the original proposed Regulation, a large dog in a public place has to be held on a leash by a person not under the age of 16 years. The same requirement also applies to a fighting dog and known dangerous dog. Members questioned the age requirement as a person under 16 could be physically strong enough to control his dog. After deliberation, the Administration agreed to remove the age reference for the person controlling any of the three categories of dogs in public places. The Administration also agreed to standardize the length of leash for large dogs held by a person in public places, regardless of whether indoors or outdoors, to not more than 2 metres.

16. There was also a requirement in the original proposed Regulation that a person who leaves a dog leashed on a pole in a public place for urgent business might inadvertently commit an offence. In response to members' request, the Administration agreed to revise the relevant section to allow tying of large dogs in outdoor public places provided that this does not endanger public safety and welfare of the dogs. The length of leash is required to be not more than 1.5 metres.

17. On the proposed leashing requirement for large dogs, some members remain concerned about the effectiveness of the Regulation in tackling the dangerous dogs problem by requiring large dogs to be on leash in public places. They are of the view that the crux of the problem is to impose penalty on irresponsible dog owners and to control stray dogs rather than licensed large dogs. In this respect, the Administration has provided the explanation that under the current legislation, a dog is required to be on leash or otherwise under

control. Experience however has shown that it is difficult to prove an unleashed dog is not “otherwise under control”. The proposed leashing requirement for dogs will help address the enforcement difficulties. As regards stray dogs, the Administration advised that stray animals are not the main cause of dog attacks. Over 50% of the 3,075 investigated cases in the past two years were caused by owned and licensed dogs. Nevertheless, an animal management division under the Agriculture, Fisheries and Conservation Department has recently been formed to step up actions to control stray dogs.

Exemptions

18. The Subcommittee noted some deputations’ view that certain large dogs which do not endanger public safety should be exempted from the requirement under the Regulation. In this respect, the Administration agreed to grant exemptions under section 17 of the Ordinance to trained dogs if they can demonstrate, through examination, that they will remain under control off leash in a range of standard day-to-day live situations. However, if evidence suggests that an exempted dog represents a threat to public safety, the Director of Agriculture, Fisheries and Conservation (“the Director”) may revoke the exemption and inform the dog owner accordingly. The exemption examination for large dogs will be provided frequently to meet public demand. Additional manpower from outside licensed veterinarians will be employed, if necessary, to help conducting the examinations. To enable dog owners to familiarize with the examination, the Administration has undertaken to bring the parts of the Regulation concerning control of large dogs into operation six months after the Regulation is approved by LegCo. The Secretary for Environment and Food will state this intention when she moves the resolution on the Regulation in LegCo. The Administration has also assured members that all affected owners of licensed dogs will be informed of the exemption examination.

19. Some members remain concerned about the scope for large dogs without having exemption under the examination, to be exercised off leash. They have suggested that the exemption should be extended to cover “public places to which a public transport carrier has no access or is not permitted to have access” or “remote countryside”. These suggestions have however been rejected by the Administration on the grounds that it would be difficult to define exactly the scope of “public places not accessible by public transport” or “remote countryside”. Such legal ambiguity arisen would not only result in insurmountable law enforcement problems, but also lead to confusion among the public. The Administration has stressed that owners of large dogs should seek exemption from the leashing requirement for their dogs by entering the exemption examination. Nevertheless, the Administration has agreed to extend the exemption to cover sea areas which include the three marine parks in Hong Kong.

20. As regards dogs participating in dog shows and large dogs inside dog gardens, the Administration is prepared to exempt these dogs from the leashing requirement under section 17 of the Ordinance. Exemption for dogs in dog shows will be granted on a case-by-case basis whereas large dogs inside the dog gardens will still have to be subject to the control of Bylaw 12(1) of the Pleasure Grounds Regulation (Cap. 132 BC) administered by the Leisure and Cultural Services Department.

Issues relating to fighting dogs and known dangerous dogs

Classification of fighting breeds

21. The Subcommittee noted the concern raised by a deputation about the basis for classifying certain types of fighting breeds to be controlled under the fighting dogs category. According to the Administration, 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. The Administration has no intention of incorporating other breeds into the fighting dogs category, unless there is clear evidence demonstrating a need to do so. There are experts in Hong Kong capable of distinguishing dog breeds and suitable for appointment to the Dogs and Cats Classification Board to identify fighting breeds and crosses, e.g. accredited judges from kennel clubs and experienced veterinary practitioners.

22. To facilitate members to further monitor the classification of fighting dogs, the Administration has acceded to the request of the Subcommittee that any amendment to the Schedule setting out the classification of fighting dogs will be subject to LegCo's positive vetting instead of negative vetting as originally proposed.

Classification of known dangerous dogs

23. Members noted that under the proposal, a magistrate may, upon an application made in that behalf, by order classify a dog as a known dangerous dog. To strike a balance between protection for the public and the well-being of animals, members have proposed that a magistrate may classify a dog as a known dangerous dog on application to him showing that the dog has, amongst other things, a history of repeatedly putting people in fear of being attacked, as distinct from only putting them in fear as proposed in the original draft

Regulation. The Administration has shown support for members' proposal and agreed to revise the Regulation accordingly.

Control of fighting dogs and known dangerous dogs

24. The Subcommittee is agreeable to the proposed leashing and muzzling controls of fighting dogs and known dangerous dogs in both indoor and outdoor public places. Nevertheless, some members are concerned about the neutering requirement of these dogs.

25. According to the Administration's proposal, it is an offence to keep a fighting dog for more than 120 days after commencement of the Regulation unless it is neutered. The purpose of the provision is to phase out fighting dogs and known dangerous dogs over a period of seven to ten years in order to protect the public from attacks by these dogs. The Administration maintains that the phasing out of fighting dogs will not be achieved unless the neutering requirement, together with an import ban, is retained in the Regulation. Under the current legislation, prosecutions against breeding activities cannot be established unless the dogs are caught in the act of mating and the owners of the dogs can be proved to be responsible for breeding, causing to breed or permitting to breed these dogs. However, both conditions are very difficult to meet in practice. The neutering requirement is therefore a much more effective means than prevent breeding of fighting dogs. The Administration is of the view that with the ban on importing fighting dogs, illegal breeding activities are expected to increase if there is no neutering provision. There is also proof that neutered dogs have shown to be less likely to bite, less aggressive towards other animals, and have fewer behavioral problems than their unneutered counterparts. The neutering of pet animals is accepted throughout the world as the appropriate and safe way to prevent animals from breeding.

26. Some Subcommittee members are still not convinced by the Administration's explanation. They consider the neutering requirement unnecessary and inhuman.

Ex-gratia payments to fighting dog owners

27. The Subcommittee noted that under the original proposed Regulation, a dog owner who surrenders his fighting dog to the Director for destruction during the transitional period of 120 days will receive an ex-gratia payment of \$3,000. Although this provision aims to encourage voluntary surrendering of existing fighting dogs, there is concern that the ex-gratia payment is excessive and will provide opportunities for profiteering.

28. According to the Administration, the payment is to compensate dog owners who surrender their dogs for the expense of purchasing and raising

these dogs. To guard against any abuse, the dog surrendered is required to be present in Hong Kong and be licensed at the time of commencement of the Regulation in order to be eligible for the ex-gratia payment. 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 dog owner. As the majority of members still consider such payments to dog owners not necessary, the Administration has agreed to remove the provision. Nevertheless, individual members have indicated that they would not support the removal of such provision.

Conveyance and the importation of fighting dogs

29. Members note that under the proposal, a person who imports a fighting dog into Hong Kong or removes a fighting dog from any conveyance arriving in Hong Kong commits an offence. They are concerned that a person who owns a licensed fighting dog and brings it on a trip outside Hong Kong will inadvertently commit an offence when they return home. To address members' concern, the Administration has agreed to amend the Regulation to the effect that a person who takes a fighting dog licensed under section 19A of the Rabies Regulation (Cap. 421 sub. leg.) out of Hong Kong will not commit an offence when they return home.

Recommendation

30. The Administration has forwarded a revised draft Regulation to the Subcommittee, as given in **Appendix III**. While the Subcommittee has not proposed any amendments to the Regulation, individual members might consider moving amendments regarding neutering requirement for fighting dogs and ex-gratia payment to fighting dogs owners. The Subcommittee recommends that the Resolution under section 3 of the Ordinance could be moved. Subject to members' views, the Administration intends to move the Resolution on 10 May 2000.

Advice sought

31. Members are invited to note the deliberations of the Subcommittee and support the recommendation in paragraph 30 above.

Prepared by
Council Business Division 1
Legislative Council Secretariat
13 April 2000

**Subcommittee on
Resolution under section 3 of the
Dogs and Cats Ordinance (Cap. 167) and
Dogs and Cats (Amendment) Ordinance 1997 (97 of 1997)
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**Membership list
(as at 6 July 1999)**

Dr Hon TANG Siu-tong, JP (Chairman)
Hon James TIEN Pei-chun, JP
Hon David CHU Yu-lin
Hon Michael HO Mun-ka
Hon Eric LI Ka-cheung, JP
Hon Ronald ARCULLI, JP
Hon HUI Cheung-ching
Hon Christine LOH
Hon CHAN Kwok-keung
Hon CHAN Wing-chan
Dr Hon LEONG Che-hung, JP
Hon Emily LAU Wai-hing, JP

Total : 12 Members

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**List of organizations/individuals
who have submitted views to the Subcommittee**

Hong Kong and Kowloon Kennel Association
Hong Kong Kennel Club Limited
Puppywatch
Society for the Prevention of Cruelty to Animals
The Animals Asia Foundation
The Chinese University of Hong Kong
The Hong Kong Veterinary Association Limited
The International Fund for Animal Welfare
Mr Graeme Alford
Mr Nick P Etches
Mr Neil McLaughlin
Mr P C Sanderson
Dr John Wedderburn