

立法會
Legislative Council

LC Paper No. LS88/05-06

**Paper for the House Committee Meeting
on 7 July 2006**

**Legal Service Division Report on
Prevention of Cruelty to Animals (Amendment) Bill 2006**

I. SUMMARY

- 1. Objects of the Bill** To increase the penalty for the offences relating to cruelty to animals under the Prevention of Cruelty to Animals Ordinance (Cap. 169) (“the Ordinance”) and the Prevention of Cruelty to Animals Regulations (Cap. 169 sub. leg. A) (“the Regulations”).
- 2. Comments** The Bill seeks to increase the penalty for offences relating to cruelty to animals from a fine of \$5,000 and a term of imprisonment of 6 months to the level 6 fine (i.e. \$100,000 under the Criminal Procedure Ordinance (Cap. 221)) and imprisonment for 12 months. It also seeks to increase the penalty that may be prescribed under the Regulations from a fine of \$2,000 to a fine at level 4 (i.e. \$25,000 under the Criminal Procedure Ordinance). The Regulations are sought to be amended in that any person who contravenes regulations 2 to 19 shall be liable to the increased fine at level 4 accordingly. The Administration is of the view that the proposed penalty level is in line with that in other developed countries.
- 3. Public Consultation** The Administration has considered the views of animal welfare groups.
- 4. Consultation with LegCo Panel** The legislative proposals were considered at the meeting of the LegCo Panel on Food Safety and Environmental Hygiene on 11 April 2006 and were supported by the Panel members.
- 5. Conclusion** The proposals in the Bill do not seem to raise any controversial policy issues and the drafting of the Bill is in order. Members may wish to consider whether it is necessary to set up a Bills Committee.

II. REPORT

Objects of the Bill

To increase the penalty for the offences relating to cruelty to animals under the Prevention of Cruelty to Animals Ordinance (Cap. 169) (“the Ordinance”) and the Prevention of Cruelty to Animals Regulations (Cap. 169 sub. leg. A) (“the Regulations”).

LegCo Brief Reference

2. HWF (F) 6/8/2 pt.2 issued by the Health, Welfare and Food Bureau and dated 21 June 2006.

Date of First Reading

3. 5 July 2006.

Comments

4. Section 3(1) of the Ordinance provides that any person who is guilty of certain acts relating to cruelty to animals shall be liable on summary conviction to a fine of \$5,000 and to imprisonment for 6 months. The prohibited acts under section 3(1) include the following –

- (a) cruel beating, kicking, torturing of any animal;
- (b) neglect to supply sufficient food and fresh water to any animal in confinement or captivity;
- (c) conveying of any animal in such a manner or in a case of such construction as to subject the animal to unnecessary pain or suffering;
- (d) loading into or discharge of any animal from any vessel or railway truck in such a way as to subject such animal to needless or avoidable suffering;
- (e) causing the fighting or baiting of an animal;
- (f) employing in any work or labour any animal which is unfit to be so employed;

- (g) bringing into Hong Kong any animal in any way which may cause needless or avoidable suffering.

5. The level of penalty provided in section 3(1) of the Ordinance was first prescribed in 1935 and was last amended in 1979.

6. Regulations 2 to 19 of the Regulations prescribe certain standards for the welfare of animals such as the conditions for the keeping of animals and import and export of live stocks and cattle. Regulation 21(1) provides that any person who contravenes regulations 2 to 19 shall be liable to a fine of \$2,000 or, in the case of a continuing offence, the sum of \$200 for every day during which the offence continues.

7. The Administration believes that the present penalty level under the Ordinance does not reflect the seriousness of the crime concerning cruelty to animals nowadays and does not serve the purpose of deterring persons from committing acts of cruelty to animals, hence proposes to increase the levels of penalty by the Bill.

8. The Bill seeks to increase the penalty for offences under section 3(1) of the Ordinance from a fine of \$5,000 and a term of imprisonment of 6 months to the level 6 fine (i.e. \$100,000 under the Criminal Procedure Ordinance (Cap. 221)) and imprisonment for 12 months (clauses 2 and 3). It also seeks to amend the regulation making power under section 8(1) of the Ordinance to increase the penalty that may be prescribed under the Regulations from a fine of \$2,000 to a fine at level 4 (i.e. \$25,000 under the Criminal Procedure Ordinance). The Regulations are sought to be amended in that any person who contravenes regulations 2 to 19 shall be liable to the increased fine at level 4 under the Criminal Procedure Ordinance accordingly.

9. The Administration is of the view that the proposed increased penalty level is line with that in other developed countries such as the UK, Singapore, Japan, the various states in Australia and the US (ref: para. 4 of LegCo Brief).

Public Consultation

10. According to the LegCo Brief (para. 8), the Administration has considered the views of animal welfare groups.

Consultation with LegCo Panel

11. The proposals contained in the Bill was considered at the meeting of the LegCo Panel on Food Safety and Environmental Hygiene on 11 April 2006 and were supported by the Panel members.

Conclusion

12. The proposals in the Bill do not seem to raise any controversial policy issues and the drafting of the Bill is in order. Members may wish to consider whether it is necessary to set up a Bills Committee.

Prepared by

Kitty Cheng
Assistant Legal Adviser
Legislative Council Secretariat
3 July 2006