

**For discussion
on 11 April 2006**

LegCo Panel on Food Safety and Environmental Hygiene

**Proposed Amendments to
the Prevention of Cruelty to Animals Ordinance (Chapter 169)**

PURPOSE

This paper briefs Members on the Administration's plan to amend the Prevention of Cruelty to Animals Ordinance (the Ordinance) (Cap 169) to increase relevant penalties, in order to enhance its deterrent effect against cruelty to animals.

BACKGROUND

2. The Ordinance is the main legislation in safeguarding animal welfare by prohibiting and punishing cruelty to animals. This Ordinance empowers officers to prosecute offenders who cause unnecessary suffering upon animals, and sets maximum penalties.

3. A wide variety of act of cruelty against animals are set out in the Ordinance, including cruelly beats, kicks, ill-treats, tortures, causes, procures or assists at the fighting or baiting of any animal, being in charge of any animal in captivity but neglects to supply the animal with sufficient food and sufficient fresh water, and transports any animal in any way which may cause it needless or avoidable suffering, etc. In addition, the Prevention of Cruelty to Animals Regulations (the Regulations) (Cap 169 sub leg A) specifies the conditions, including ventilation and cage design, under which animals may be kept in confinement or during import or export. Past enforcement statistics and sentencing outcome is provided at **Annex A**.

4. Currently, under the Ordinance, any person who causes unnecessary suffering on animal shall be liable on conviction to a maximum fine of \$5,000 and imprisonment of six months. Any person who contravenes the requirements set out in the Regulations shall be liable to a fine of \$2,000. The level of fines in the current legislation was amended in 1979 and it can no longer reflect the level of seriousness of cruelty to animals.

THE PROPOSAL

5. Animals are important companions to people and they should be respected. By making reference to the level of penalty against animal cruelty in other countries, we propose to raise the maximum fine of violating the

Prevention of Cruelty to Animals Ordinance from \$5,000 to a fine at Level 6 which is currently \$100,000 as stipulated in Section 113C of the Criminal Procedure Ordinance (Cap 221). Furthermore, we propose that the maximum sentence should be increased from six months to twelve months. The purpose is to achieve a realistic and updated deterrent effect. Animal welfare groups, their supporters and the Animal Welfare Advisory Group (AWAG) also consider that a substantially higher deterrent fine is essential to deter those intentionally causes sufferings on animals. Moreover, the proposed increase in fine will bring the penalty level in line with other developed countries. A list of overseas penalty is provided at **Annex B**.

6. In parallel, we propose to increase the maximum penalty in the Regulations to Level 4 which is currently set at \$25,000 according to Section 113C of the Criminal Procedure Ordinance (Cap 221). Offences against the Regulations may not be as serious as those set out in Section 3 of the main Ordinance. That said, negligence to provide proper care to animals such as poor ventilation and lighting or poor cage design in confinement or during import or export still cause avoidable stress to animals. It is our view that the increase from \$2000 to Level 4 at \$25,000 is justified for breach of conditions under which animals may be kept in confinement or during import or export.

WAY FORWARD

7. Amendments need to be made to the penalty level of Prevention of Cruelty to Animals Ordinance (Cap 169) and the Prevention of Cruelty to Animals Regulations (Cap 169 sub leg A) to effectively deter animal cruelty. Taking into account any views Members may have, we will further consult the relevant parties on the proposal and commence drafting of the legislative amendments.

ADVICE SOUGHT

8. Members are invited to comment on our proposal set out in the paragraphs above.

Health, Welfare and Food Bureau
Agriculture, Fisheries and Conservation Department
April 2006

Annex A

Enforcement Statistics and Sentencing Outcome of Offences against Prevention of Cruelty to Animals Ordinance and Regulations (2003 to September 2005)

a) By sentencing outcome

Sentence pattern	2003	2004	2005 (Jan-Sep)
Not convicted	3	3	0
Immediate imprisonment	0	1	1
Community service order	0	0	1
Bound-over/Conditional discharge	1	0	0
Fine	13	14	9
Total number of successful prosecution	14	15	11
Total number of prosecution	17	18	11

b) Number of prosecutions by prosecuting department

Prosecuting Department	2003	2004	2005 (Jan-Sep)
Police	9	9	9
Agriculture & Fisheries Department	8	9	2
Total number of successful prosecution	14	15	11
Total number of prosecution	17	18	11

c) Defendants sentenced with immediate imprisonment by duration of imprisonment

Duration of imprisonment	2003	2004	2005 (Jan-Sep)
Less than 1 month	0	1	1
Total	0	1	1

d) Defendants sentenced with fine by fine amount (HK\$)

Fine Amount(HK\$)	2003	2004	2005 (Jan-Sep)
Less Than 1,000	6	5	1
1,000 - Less Than 4,000	7	8	8
4,000	0	1	0
Total	13	14	9
Overall Average Amount of Fine			\$1292

Annex B

Penalties against the Cruelty to Animals in Other Countries/State

Country/State	Law	Maximum Penalty for Individuals	Maximum Imprisonment
New South Wales	Prevention of Cruelty to Animal Act 1979	200 penalty units (AUD\$110 per penalty unit) (HK\$126,060 in total)	2 years
Victoria	Prevention of Cruelty to Animal Act 1986	120 penalty units (AUD\$104.81 per penalty unit) (HKD\$72,067 in total)	12 months
Western Australia	Animal Welfare Act 2002	AUD\$50,000 (HK\$286,500)	5 years
New Zealand	Animal Welfare Act 1999	NZD\$25,000 (HK\$ 128,750)	6 months
UK	Protection of Animals Act	£ 5,000 (HK\$67,900)	6 months
Washington	Prevention of Cruelty to Animals	US\$10,000 (HK\$77,700)	5 years
New York	Agriculture and Markets Law	US\$5,000 (HK\$38,850)	4 years
Singapore	Animals and Birds Act	SG\$10,000 (HK\$47,900)	1 year
Japan	Law Concerning Protection and Control of Animals	Yen \$ 1,000,000. (HK \$ 65,000)	1 year