

**For discussion
on 8 November 2011**

LegCo Panel on Food Safety and Environmental Hygiene

**Public Consultation on the Proposals to Amend Schedule 2 of
the Veterinary Surgeons Registration Ordinance (Cap. 529)**

Purpose

This paper briefs Members on the proposals to amend Schedule 2 of the Veterinary Surgeons Registration Ordinance (Cap. 529) (VSRO).

Background

2. The VSRO provides for the regulation of the practice of veterinary surgery, the registration of veterinary surgeons and the disciplinary control of the professional activities of registered veterinary surgeons and related matters. The Veterinary Surgeons Board of Hong Kong (VSB) is an independent statutory authority established under the VSRO. Among other things, the VSB's remit is to establish and maintain a register of registered veterinary surgeons, set and review the qualification standards for registration as a registered veterinary surgeon, examine and verify the qualifications of persons who apply for registration as registered veterinary surgeons and deal with disciplinary offences. VSB may also issue a Code of Practice (CoP) and make rules for the professional conduct and discipline of registered veterinary surgeons. The overarching objective of the work of VSB is to ensure a high standard of veterinary services in Hong Kong.

3. The Government and VSB are keenly aware that the existing regulatory control of veterinary practices needs to be kept up to date with modern developments, in view of the rapid advancement of veterinary knowledge, evolving veterinary practices and growing public awareness of animal welfare issues. In response to the veterinary community's call for reviewing existing restrictions imposed on both lay staff working in veterinary clinics and veterinary students, VSB had formed a working group to study the proposal to expand Schedule 2 of the VSRO. With advice and input from VSB, the Administration has reviewed the existing regulatory regime in Hong Kong as well as the relevant legislative provisions. We have also drawn

reference to the legislation and practices of other jurisdictions, where appropriate, to ensure that any improvements made to the regulatory control system in Hong Kong are in line with international standards. As a result of the review, we have identified several areas where Schedule 2 of the VSRO could be improved.

Schedule 2 of the VSRO

4. Under section 16(1) of the VSRO, no person shall practise veterinary surgery¹ or provide a veterinary service² in Hong Kong unless he or she is a veterinary surgeon registered with VSB and the holder of a practising certificate which is currently in force. Any person who contravenes this provision commits an offence and is liable on conviction to a fine at level 6 and imprisonment for one year as stipulated under section 25(1)(h) of the VSRO.

5. Notwithstanding the above, section 29 of the VSRO provides that the persons listed in Schedule 2 of the Ordinance are exempted from the provisions of the VSRO in the circumstances specified in that Schedule. This means that, in the specified circumstances, the persons listed in Schedule 2 are not subject to the prohibition in section 16(1) when they are performing acts which fall within the meaning of “veterinary surgery” or providing services which fall within the meaning of “veterinary service” under the VSRO. The exemptions in Schedule 2 include the following –

- (1) a medical practitioner or a dentist carrying out any treatment, test or surgery on an animal provided it is done at the request of a registered veterinary surgeon;
- (2) a medical practitioner who performs surgery on an animal for the purpose of removing an organ or tissue for use in the treatment of human beings;
- (3) a person who treats an animal by physiotherapy provided the

¹ “Veterinary surgery” means “the art and science of veterinary surgery and medicine and, without limiting the foregoing, includes –

- (a) the diagnosis of disease in, and injuries to, animals including tests performed for diagnostic purposes;
- (b) the giving of advice based on such diagnosis;
- (c) the medical or surgical treatment of animals including the performance of surgical operations thereon.”

² “Veterinary service” means “doing or performing any act or attending to any matter the doing or performing of which or the attending to which forms part of the generally accepted practice of veterinary surgery”.

treatment is carried out under the direction of a registered veterinary surgeon;

- (4) the owner (or his / her employee or a member of his / her household) when treating his / her own animal, provided such treatment does not include making a surgical incision into the abdominal or thoracic cavity;
- (5) a licensee under the Animals (Control of Experiments) Ordinance (Cap. 340) when performing an experiment in accordance with the provisions of that Ordinance;
- (6) a person who is employed or retained by the Government for performing vaccinations on animals, while performing such vaccinations; and
- (7) a person who administers first aid to an animal for the purpose of saving its life or relieving pain, provided such treatment does not include making a surgical incision into the abdominal or thoracic cavity.

6. By virtue of section 29(2) of the VSRO, the Secretary for Food and Health may, by order, amend Schedule 2.

Proposals and public consultation

7. On 8 September 2011, the Food and Health Bureau and the Agriculture, Fisheries and Conservation Department launched a public consultation on the proposals to amend Schedule 2 of the VSRO lasting about two months until 31 October 2011. We propose to –

- (a) permit veterinary assistants, veterinary students, and other individuals to perform certain acts of veterinary surgery and provide certain veterinary services under the direction and / or supervision of a registered veterinary surgeon;
- (b) limit the veterinary acts which may be performed by animal owners to certain minor acts;
- (c) permit licensed livestock farmers to perform certain animal husbandry procedures; and

- (d) permit public officers to perform certain acts of veterinary surgery under the direction of a Government Veterinary Officer (who is also required to be a registered veterinary surgeon)

The consultation document is at [Annex](#).

Permitting veterinary assistants and veterinary students to perform certain veterinary acts currently restricted under the VSRO

8. According to the CoP for the Guidance of Registered Veterinary Surgeons issued by VSB, the work that lay persons, which include veterinary assistants and veterinary students, may legitimately perform is severely limited. Acts such as giving injections, performing simple wound management, administration of medication or treatment to the animals are generally accepted as providing a “veterinary service” or practising “veterinary surgery” regulated by section 16 of the VSRO. In other words, such acts should only be performed by a registered veterinary surgeon holding a practising certificate unless exemption is provided under section 29 of the VSRO. Considering that veterinary clinics and organisations employ staff to assist them in their day to day practice and registered veterinary surgeons may also be called upon to instruct veterinary students, the veterinary community is hence concerned that a veterinary assistant (or other lay staff), or veterinary student may contravene the law if he / she performs relatively simple veterinary tasks, even if they are working under the direct supervision and / or instruction of a registered veterinary surgeon.

9. To address the concern, we consider that there is a need to strike a balance between the legitimate needs of veterinary assistants, veterinary students and other individuals to perform certain veterinary acts for working or training purposes on one hand, and the welfare of animals as well as public health and safety concerns on the other. We therefore propose to add to Schedule 2 of the VSRO a new provision to permit any individual (such as a veterinary assistant or veterinary student) working under the direction / supervision / direct and continuous supervision of a registered veterinary surgeon to perform certain acts of veterinary surgery. Furthermore, we will suggest VSB to stipulate in the CoP that the individual concerned should have been trained to a level of competence in veterinary practice to the satisfaction of the supervising / directing registered veterinary surgeon; and that the registered veterinary surgeon shall be fully responsible for the acts performed by the individual under his or her direction or supervision. Details are set out in Chapter 2 of the consultation document. A list of acts proposed to be permitted, which includes the most common veterinary nursing procedures, can be found in Annex 3 of the consultation document.

Restricting invasive acts by animal owners on their animals

10. An exemption is provided in paragraph 4 of Schedule 2 of the VSRO to an owner (or his / her employee or a member of his / her household) when treating his / her own animal provided that such treatment does not include making a surgical incision into the abdominal or thoracic cavity of the animal. The intention of the existing exemption when the VSRO was first enacted in 1997 was to facilitate the work of livestock keepers. However, as farming and veterinary practices evolve, there is concern within the veterinary profession about the wide scope of this exemption. It is considered that some of the acts currently exempted would more appropriately be carried out by a registered veterinary surgeon. To move with the times and to better protect animal welfare, we propose to amend the existing paragraph 4 of Schedule 2 in such a way so as to limit the veterinary acts which may be performed by animal owners when treating their own animals to certain minor acts which pertain to the basic care of the animal by the owner. The detailed proposal is set out in paragraph 3.12 under Chapter 3 of the consultation document.

Permitting licensed livestock farmers to perform certain animal husbandry procedures

11. Certain husbandry procedures are common practice and are considered necessary when raising livestock. To allow livestock farmers to carry out necessary husbandry procedures on their animals (which would also be considered acts of veterinary surgery) for the prevention of injury and / or disease and better management and care of farm animals, we propose to amend the existing paragraph 4 of Schedule 2 of the VSRO to allow a licensed livestock farmer to perform certain specified husbandry procedures on his / her animals where necessary. Details are in paragraph 3.13 under Chapter 3 of the consultation document.

Permitting public officers to perform certain veterinary acts

12. To facilitate the Government in fulfilling its public responsibilities relating to public health, public safety, animal welfare and most of all disease monitoring and control, we propose to exempt a person who is employed or retained by the Government for acts relating to the examination of animals, collection of samples, administration of medications or vaccinations when such are under the direction of a Government Veterinary Officer (who is also required to be a registered veterinary surgeon). Details are provided in paragraph 3.14 of Chapter 3 of the consultation document.

Initial feedback of the public consultation

13. During the consultation period, three public consultation forums and three consultation meetings with farmers were held. About 1,100 letters / emails together with links to the consultation documents were sent out to the relevant stakeholders including all registered veterinary surgeons in Hong Kong, the Hong Kong Veterinary Association, the China (Hong Kong) Veterinary Association, universities running animal related courses, licensed livestock farmers, animal welfare organisations, kennel clubs, licensed pet traders, government departments with dog units, and other related organisations such as the Consumer Council.

14. The majority of the comments we have received indicated that the respondents were generally in support of our proposals set out in the consultation document. Specifically, we have received overwhelming support, especially from the veterinary community, on the proposal to permit individuals (such as vet assistants and vet students) to perform certain veterinary acts provided it is under the direction of a registered veterinary surgeon. Many respondents accepted that veterinary surgeons must carry the ultimate responsibility for veterinary acts carried out under their direction and supervision and that they must ensure that their supporting staff are adequately trained for and competent in the veterinary acts to be performed on animals. Some pig farmers suggested that they be allowed to personally perform castration of piglets at 14 days of age or less, instead of the seven days being proposed. However, countering this, animal welfare concerns have been expressed regarding various farm husbandry practices which may also be considered acts of veterinary surgery.

Way Forward

15. Members are invited to advise on the proposals set out in the consultation document. The Administration will carefully study the views and comments received before finalising the legislative proposals.

**Food and Health Bureau
Agriculture, Fisheries and Conservation Department
November 2011**

Consultation Document

Proposals to Amend Schedule 2 of the Veterinary Surgeons Registration Ordinance (Cap. 529) of the Laws of Hong Kong

September 2011



食物及衛生局
Food and Health Bureau



漁農自然護理署
Agriculture, Fisheries and
Conservation Department

CONSULTATION DOCUMENT

**PROPOSALS TO AMEND SCHEDULE 2 OF
THE VETERINARY SURGEONS
REGISTRATION ORDINANCE (CAP. 529)
OF THE LAWS OF HONG KONG**

**Food and Health Bureau
Agriculture, Fisheries and Conservation Department
September 2011**

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CHAPTER 1 OVERVIEW

Purpose

- 1.1 The purpose of this consultation document is to facilitate an informed discussion by the veterinary profession, animal welfare groups, animal owners and other stakeholders, as well as members of the public, concerning the Government's proposals to amend Schedule 2 of the Veterinary Surgeons Registration Ordinance (Cap. 529) ("VSRO") of the Laws of Hong Kong. The proposals are made with a view to –
- (a) permitting veterinary assistants, veterinary students, and other individuals to perform certain acts of veterinary surgery and provide certain veterinary services under the direction and / or supervision of a registered veterinary surgeon; and
 - (b) limiting the veterinary acts which may be performed by animal owners to certain minor acts.

We would like to seek your views on the various proposals contained in this consultation document. The deadline for submitting comments is **31 October 2011**.

Background

- 1.2 The VSRO provides for the regulation of the practice of veterinary surgery, the registration of veterinary surgeons, the disciplinary control of the professional activities of registered veterinary surgeons and for matters related to such registration and disciplinary control. The VSRO also provides for the establishment of an independent Veterinary Surgeons Board of Hong Kong ("VSB"), which is responsible for discharging the functions stipulated in the VSRO, including but not limited to establishing and maintaining a register of registered veterinary surgeons, setting and reviewing the qualification standards for registration as a registered veterinary

surgeon and related registration matters, as well as advising the Government on registration matters.

- 1.3 The VSB and the Government attach great importance to maintaining the high standard of veterinary services in Hong Kong. Over the years, the veterinary sector has undergone significant changes as a result of the rapid advancement of veterinary knowledge and the growing awareness among members of the public of animal welfare issues. We are keenly aware that the existing system of regulatory control of veterinary practices needs to be kept up to date with modern developments. In this regard, with advice from the VSB, the Government has conducted a review of the existing regulatory regime in Hong Kong and the relevant legislative provisions, with a view to identifying areas for improvement.
- 1.4 In view of the complexity of the issues involved and the different interests of stakeholders, reference has been made to the legislation and practices of other jurisdictions, where appropriate, to ensure that any improvements made to the regulatory control system in Hong Kong are in line with international standards.

Schedule 2 of the VSRO

- 1.5 Under section 16(1) of the VSRO, no person shall practise veterinary surgery¹ or provide a veterinary service² in Hong Kong unless he or she is a veterinary surgeon registered with the VSB and the holder of a practising certificate which is currently in force. Any person who contravenes this provision commits an offence and is liable on

¹ “Veterinary surgery” means “the art and science of veterinary surgery and medicine and, without limiting the foregoing, includes –

- (a) the diagnosis of disease in, and injuries to, animals including tests performed for diagnostic purposes;
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- (c) the medical or surgical treatment of animals including the performance of surgical operations thereon.”

² “Veterinary service” means “doing or performing any act or attending to any matter the doing or performing of which or the attending to which forms part of the generally accepted practice of veterinary surgery”.

conviction to a fine at level 6 and imprisonment for 1 year as stipulated under section 25(1)(h) of the VSRO.

1.6 Notwithstanding the above, section 29 of the VSRO provides that the persons listed in Schedule 2 of the Ordinance are exempted from the provisions of the VSRO in the circumstances specified in that Schedule. This means that, in the specified circumstances, the persons listed in Schedule 2 are not subject to the prohibition in section 16(1) when they are performing acts which fall within the meaning of “veterinary surgery” or providing services which fall within the meaning of “veterinary service” under the VSRO. The exemptions in Schedule 2 include the following –

- (1) a medical practitioner or a dentist carrying out any treatment, test or surgery on an animal provided it is done at the request of a registered veterinary surgeon;
- (2) a medical practitioner who performs surgery on an animal for the purpose of removing an organ or tissue for use in the treatment of human beings;
- (3) a person who treats an animal by physiotherapy provided the treatment is carried out under the direction of a registered veterinary surgeon;
- (4) the owner (or his / her employee or a member of his / her household) when treating his / her own animal, provided such treatment does not include making a surgical incision into the abdominal or thoracic cavity;
- (5) a licensee under the Animals (Control of Experiments) Ordinance (Cap. 340) when performing an experiment in accordance with the provisions of that Ordinance;
- (6) a person who is employed or retained by the Government for performing vaccinations on animals, while performing such vaccinations; and

- (7) a person who administers first aid to an animal for the purpose of saving its life or relieving pain, provided such treatment does not include making a surgical incision into the abdominal or thoracic cavity.
- 1.7 The VSRO was first enacted in 1997. No legislative amendments to Schedule 2 of the VSRO have been introduced since that date. By virtue of section 29(2) of the VSRO, the Secretary for Food and Health may, by order, amend Schedule 2.
- 1.8 The review conducted by the Government covered the following areas:
- (a) veterinary assistants and their role in veterinary practices;
 - (b) veterinary students undertaking clinical experience in veterinary practices; and
 - (c) performance of veterinary acts by animal owners' on their own animals.
- 1.9 As a result of the review, we have identified several areas where Schedule 2 of the VSRO could be improved. We have, accordingly, decided to consult all relevant stakeholders, as well as the public, about this important matter, which concerns the lawfulness of veterinary assistants, veterinary students and other individuals to undertake certain veterinary acts, as well as animal welfare. The views and comments received will help us to ensure that any legislative proposals which are enacted in the future will take account of local conditions and will be suitable for Hong Kong.
- 1.10 The key issues of concern and the proposed way forward are set out in Chapters 2 and 3 below. To enhance the understanding of each subject, each Chapter starts with a brief background of the relevant issues, which is then followed by a discussion of the issues in greater detail and our proposals for improvement. Where appropriate, reference is made to the legislation and practices of other jurisdictions, such as the United Kingdom (“UK”) and the United

States (“US”).

- 1.11 Chapter 4 provides a summary of the questions raised for the purposes of this consultation.
- 1.12 We would be grateful if you would provide us with your views on these questions. We will finalise the proposals after taking into account the views received.

CHAPTER 2 PERMITTING VETERINARY ASSISTANTS AND VETERINARY STUDENTS TO PERFORM CERTAIN VETERINARY ACTS CURRENTLY RESTRICTED UNDER THE VETERINARY SURGEONS REGISTRATION ORDINANCE

Background

- 2.1 In Hong Kong, there are currently about 600 registered veterinary surgeons. The majority of them are engaged in private practice with some 200 veterinary clinics, while others are working in public or private organisations such as Government departments, Ocean Park, the Society for the Prevention of Cruelty to Animals, the Hong Kong Jockey Club and universities. All of them hold veterinary qualifications which are recognised by the VSB for registration purposes.
- 2.2 Veterinary students during their training are required to seek work experience in veterinary practices. Veterinary students from other jurisdictions may also like to acquire work experience in Hong Kong.
- 2.3 Many veterinary clinics and organisations in Hong Kong employ one or more staff to assist them in their day-to-day duties. These staff members are commonly known as veterinary assistants. It is estimated that around 1 000 such veterinary assistants are currently employed in Hong Kong³.
- 2.4 While some of these veterinary assistants have no formal training or qualifications in the veterinary field, many of them have received formal training in veterinary nursing or veterinary technology from overseas institutions, or have obtained qualifications in veterinary science which are not currently recognised by the VSB as sufficient to qualify the person for registration as a veterinary surgeon in Hong Kong.

³ According to the survey conducted by the Hong Kong Polytechnic University in 2010.

- 2.5 Under section 16(1) of the VSRO, no person shall practise veterinary surgery or provide a veterinary service in Hong Kong unless the person is a veterinary surgeon registered with the VSB and the holder of a practising certificate which is currently in force. It is an offence punishable by a fine at level 6 and imprisonment for 1 year for anyone who contravenes this section.
- 2.6 Paragraph 13.3 of the Code of Practice for the Guidance of Registered Veterinary Surgeons (“the Code of Practice”) issued by the VSB also reminds veterinary surgeons who engage lay staff in their clinics that veterinary nurses and veterinary students are no more entitled to perform an act of veterinary science than any other lay person.

Issues of Concern

- 2.7 Under the current provisions of the VSRO and the Code of Practice, the work that a veterinary assistant may legitimately perform is severely limited. Veterinary assistants are not entitled to perform even relatively simple veterinary tasks, even if they are working under the direct supervision and / or instruction of a registered veterinary surgeon. This restriction applies to all veterinary assistants, regardless of their practical experience or whether they have received formal veterinary training.
- 2.8 Veterinary students face a similar situation. For veterinary students, work experience is an important component of their professional training. Veterinary students from other jurisdictions may wish to acquire work experience in Hong Kong. In fact, many of them are Hong Kong residents who would like to gain clinical experience with a view to practising in Hong Kong in the future. However, under the current provisions of the VSRO, these students can only “see practice”⁴ without being allowed to take part in a hands-on

⁴ In overseas countries, “See practice” means to gain experience (usually in a clinical setting) by observation and hands-on application of veterinary service or veterinary surgery under the supervision of a veterinary surgeon. It is a common requirement of university veterinary programmes. However, in the case of Hong Kong, “see practice” currently does not allow hands-on veterinary practice.

veterinary practice in Hong Kong.

- 2.9 Acts such as giving injections, performing simple wound management and the administration of medication or treatment to animals are generally regarded as being acts of “veterinary service” or “veterinary surgery” which are regulated by section 16 of the VSRO. Therefore, under the current law such acts may only be performed by a registered veterinary surgeon who holds a practising certificate unless the acts are covered by an exemption provided under section 29 of the VSRO. There is a concern that a veterinary assistant or veterinary student may contravene the law if he / she performs any of such acts. In 2001, a police warning was issued to a veterinary assistant for giving injections to animals in a veterinary clinic and to the registered veterinary surgeon who employed that veterinary assistant. In 2004, another veterinary assistant was warned for administering drugs by injection to animals in a veterinary clinic.
- 2.10 It appears that the system of regulation imposed under the VSRO and the Code of Practice, while primarily aimed at protecting animal welfare, gives rise to a number of issues that warrant further assessment. First, as a consequence of the current system of regulation, adequately trained veterinary assistants are unable to fully apply their knowledge and skills to their jobs. Secondly, veterinary surgeons can hardly give their full, undivided attention to the more important tasks concerning the treatment of animals if they are not able to rely on veterinary assistants to handle simple and minor veterinary tasks. Thirdly, more veterinary surgeons are required to be employed to perform acts which can equally be performed satisfactorily by veterinary assistants, resulting in higher costs for veterinary services as a whole. Fourthly, veterinary students are deprived of the opportunity to acquire valuable work experience as part of their training. There is thus a need to consider whether the current provisions in the VSRO are too stringent for individuals who work under the direction and / or supervision of a registered veterinary surgeon, such as veterinary assistants and veterinary students.

Situation in Other Jurisdictions

The UK

- 2.11 In the UK, persons with para-professional training and qualifications in veterinary nursing or veterinary technology are recognised and are allowed to perform certain acts which otherwise would be considered to be acts of veterinary surgery.
- 2.12 Under Schedule 3 of the UK Veterinary Surgeons Act 1966, qualified veterinary nurses are permitted to give medical treatment and carry out minor surgery (not involving entry into a body cavity) to any animal under the direction of their veterinary surgeon employer. A veterinary nurse is not, however, entitled to undertake such medical treatment or minor surgery independently.
- 2.13 In considering whether to direct a qualified veterinary nurse to carry out a Schedule 3 procedure, a veterinary surgeon must consider how difficult the procedure is in the light of any associated risks, whether the veterinary nurse in question is properly trained and competent to carry it out, understands the associated risks, and has the necessary experience and good sense to react appropriately if any problem should arise. The veterinary surgeon must also be sure that he / she will be available to answer any call for assistance, and should be satisfied that the nurse feels capable of carrying out the procedure competently and successfully. The Royal College of Veterinary Surgeons (“RCVS”) in the UK in their guide to professional conduct states that when a veterinary nurse is negligent the liability is likely to rest with the directing veterinary surgeon.
- 2.14 The RCVS recognises that students undertaking training are required to undertake acts of veterinary surgery when they see practice. The Veterinary Surgeons (Practice by Students) (Amendment) Regulations (1993) (approved by S.I. 1995/2397) (“1993 Regulations”) have been passed in the UK to specifically cover students seeing practice.

2.15 The 1993 Regulations provide that students (including both full time undergraduate students in the clinical part of their course and overseas veterinary surgeons whose declared intention is to sit for the RCVS membership examination within a reasonable time) may examine animals, carry out diagnostic tests under the direction of a registered veterinary surgeon, administer treatment under the supervision of a registered veterinary surgeon and perform surgical operations under the direct and continuous supervision of a registered veterinary surgeon.

2.16 The RCVS has interpreted the 1993 Regulations as follows⁵ –

- (a) “direction” means that the veterinary surgeon instructs the student as to the tests to be administered but is not necessarily present on the premises;
- (b) “supervision” means that the veterinary surgeon is present on the premises and able to respond to a request for assistance if needed; and
- (c) “direct and continuous supervision” means that the veterinary surgeon is present and giving the student his / her undivided personal attention.

2.17 Similar to the system in the UK, Regulation 65 of the Veterinary Surgeons Regulations 1979 of Western Australia sets out the duties and veterinary services that may be performed by veterinary nurses (**Annex 1**). In South Africa, rules relating to the practising of the profession of veterinary nurse have been established (**Annex 2**).

The US

2.18 The law of the State of New Jersey in the US gives a definition of

⁵ According to the Guide to Professional Conduct for Veterinary Surgeons, Part 2, 2F (treatment of animals by non-veterinary surgeons) provided by the Royal College of Veterinary Surgeons.

“Practice”⁶, and provides a list of acts where the definition does not apply. For example, the term “practice of veterinary medicine, surgery or dentistry” does not include -

“Any properly trained animal health technician or other properly trained assistant, who is under the responsible supervision and direction of a licensed veterinarian in his practice of veterinary medicine, if the technician or assistant does not represent himself as a veterinarian or use any title or degree appertaining to the practice thereof and does not diagnose, prescribe, or perform surgery;

‘Responsible supervision’ means the oversight and direction by a veterinarian of an individual providing veterinary services delegated to that individual by that veterinarian in the veterinarian’s practice.”

- 2.19 In respect of veterinary students, the law of the State of New York exempts “any student who engages in clinical practice under supervision of a licensed or otherwise authorised veterinarian in a school of veterinary medicine registered by the New York State Education Department.”⁷

Issues for Consideration

- 2.20 In formulating our proposals, we need to strike a balance between the legitimate needs of veterinary assistants and veterinary students to perform certain veterinary acts for working or training purposes on one hand, and the welfare of animals as well as public health and safety concerns on the other. We also need to take due account of local circumstances. We cannot simply copy the regulatory system

⁶ Under the New Jersey Statutes – Title 45 Professions and Occupations, 45:16-8.1, “Practice” is defined as any person shall be regarded as practicing veterinary medicine within the meaning of this chapter, who, either directly or indirectly, diagnoses, prognoses, treats, administers, prescribes, operates on, manipulates, or applies any apparatus or appliance for any diseases, pain, deformity, defect, injury, wound or physical condition of any animal, including poultry and fish, or who prevents or tests for the presence of any disease in animals, or who performs embryo transfers and related reproductive techniques, or who holds himself out as being able or legally authorised to so.

⁷ According to the New York Education Law – § 6705 : NY Code - Section 6705: Exempt persons.

of another jurisdiction. That said, there are certain provisions in overseas legislation to which we can draw reference, particularly the legislative provisions concerning the types of work that veterinary assistants and veterinary students are permitted to carry out. The important point is that any change made to the VSRO should not undermine the standard of veterinary care which is currently provided in Hong Kong.

Proposals

- 2.21 It is proposed to add to Schedule 2 of the VSRO a new provision to permit any individual (such as a veterinary assistant or veterinary student) working under the direction / supervision / direct and continuous supervision of a registered veterinary surgeon to perform certain acts of veterinary surgery.
- 2.22 It is proposed that under the “direction” of a registered veterinary surgeon, an individual should be permitted to perform the following acts –
- (a) administering medication or treatments orally, topically and per-rectally and inhalation;
 - (b) positioning for and taking medical images;
 - (c) giving injections by subcutaneous or intramuscular routes (excluding anaesthetics); and
 - (d) non-invasive parameter monitoring (e.g. blood pressure taking).

For the purpose of the above proposal, “direction” means that the veterinary surgeon instructs the individual to perform such acts while he / she is not necessarily present on the premises.

2.23 It is also proposed that under the “supervision” of a veterinary surgeon, an individual should be permitted to perform the following acts –

- (a) venous blood sampling from peripheral veins (excluding jugular veins);
- (b) application of simple dressings such as a light support dressing and simple wound management;
- (c) placement of intravenous catheters at cephalic, saphenous or ear veins only; and
- (d) administration of fluids or medications by intravenous route through a catheter.

For the purpose of the above proposal, “supervision” means that the veterinary surgeon gives specific instruction to the individual on how such acts should be performed and is present on the premises and able to respond to a request for assistance from the individual if needed.

2.24 It is further proposed that under the “direct and continuous supervision” of the veterinary surgeon, an individual should be permitted to perform the following acts –

- (a) teeth descaling or polishing;
- (b) endotracheal intubation / extubation;
- (c) venous blood sampling from jugular veins;
- (d) administering anaesthetics, monitoring and maintaining anaesthesia;
- (e) assisting a registered veterinary surgeon who is performing and in charge of a medical or surgical procedure (where “assisting” means that the person is at no point allowed to

make any decision regarding the medical or surgical procedure); and

- (f) application of complex dressings such as Robert Jones Bandage and more complex wound management.

For the purpose of the above proposal, “direct and continuous supervision” means that the veterinary surgeon is present and giving the individual his / her direct personal attention throughout the process.

2.25 It is further proposed that an individual should only be permitted to perform the acts set out in paragraphs 2.22 – 2.24 above on the condition that –

- (a) the individual does not diagnose or prescribe medication or perform surgical operations; and
- (b) the acts are performed in the premises of the registered veterinary surgeon’s practice.

We further propose that it should be stipulated by the VSB in the Code of Practice that the individual has been trained to a level of competence in veterinary practice to the satisfaction of the supervising / directing registered veterinary surgeon.

2.26 While we are not proposing to include any specific requirement regarding the additional qualifications or amount of clinical experience that a supervising / directing registered veterinary surgeon must possess, we propose that it should be stipulated by the VSB in the Code of Practice that the registered veterinary surgeon shall be fully responsible for the acts performed by the individual under his or her direction or supervision.

2.27 **Annex 3** contains a summary of the above proposals. The listed acts above are by no means exhaustive and we welcome any suggestions during this consultation.

Invitation to Comment

2.28 Comments are invited on the following questions:

- (a) whether there is a need to permit individuals who work under the direction and / or supervision of a registered veterinary surgeon to perform certain acts of veterinary surgery and provide certain veterinary services in Hong Kong; and
- (b) if your answer to (a) is in the affirmative, whether the proposals set out in paragraphs 2.21 – 2.26 above are agreeable.

CHAPTER 3 RESTRICTING INVASIVE ACTS BY ANIMAL OWNERS ON THEIR ANIMALS

Background

- 3.1 Under section 16(1) of the VSRO, no person shall practise veterinary surgery or provide a veterinary service in Hong Kong unless he or she is a veterinary surgeon registered with the VSB and the holder of a practising certificate which is currently in force.
- 3.2 An exemption is provided in paragraph 4 of Schedule 2 of the VSRO to an owner (or his / her employee or a member of his / her household) when treating his / her own animal provided that such treatment does not include making a surgical incision into the abdominal or thoracic cavity of the animal.

Issues of Concern

- 3.3 The intention of this exemption when the VSRO was first enacted in 1997 was to facilitate the work of livestock keepers. However, upon the gradual transformation of Hong Kong's economy away from an agricultural-based society, there is considerable concern within the veterinary profession about the wide scope of this exemption. The exemption permits an owner (or his / her employee or a member of his / her household) to perform any act of veterinary surgery on his or her animal other than an act involving a surgical incision in the abdominal or thoracic cavity. The acts permitted under this exemption could include surgically removing skin masses and performing surgical stitching on wounds. The use of analgesics, anaesthetics and antibiotics in treating animals is restricted to the veterinary profession by other Ordinances such as the Dangerous Drugs Ordinance (Cap. 134), Antibiotics Ordinance (Cap. 137) and Pharmacy and Poisons Ordinance (Cap. 138). The exemption may thus inadvertently encourage the performance of these acts by owners without appropriate consideration of the animal welfare consequences.

3.4 In recent years, there has been an increasing public awareness of animal welfare issues and a greater emphasis has been put on these issues by the veterinary profession as a whole. This has led to concerns about the animal welfare implications of the exemption for animal owners currently stipulated in Schedule 2 of the VSRO.

Situation in Other Jurisdictions

The UK

3.5 In the UK, veterinary treatment and operations which may be given or carried out by unqualified persons include any minor medical treatment given to an animal by the owner of the animal (or his / her employee or a member of his / her household). According to Part I of Schedule 3 [Exemptions from Restrictions on Practice of Veterinary Surgery] of the Veterinary Surgeons Act 1966 c.36, treatment and operations which may be given or carried out by unqualified persons include –

- (1) any minor medical treatment given to an animal by its owner, by another member of the household of which the owner is a member or by a person in the employment of the owner.
- (2) any medical treatment or any minor surgery (not involving entry into a body cavity) given, otherwise than for reward, to an animal used in agriculture, as defined in the Agriculture Act 1947, by the owner of the animal or by a person engaged or employed in caring for animals so used.
- (3) the rendering in an emergency of first aid for the purpose of saving life or relieving pain or suffering.
- (4) the performance by any person of or over the age of eighteen of any of the following operations, that is to say –
 - (a) the castration of a male animal or the caponising of an animal, whether by chemical means or otherwise;

- (b) the docking of the tail of a lamb;
 - (c) ...[ceased to have effect (1.7.1993) by virtue of S.I. 1991/1412]; and
 - (d) the amputation of the dew claws of a dog before its eyes are open.
- (5) The performance, by any person of the age of seventeen undergoing instruction in animal husbandry, of any operation mentioned in paragraph 4(a) or (b) above and the disbudding of a calf by any such person or by a person of or over the age of eighteen undergoing such instruction, if, in each case, either of the following conditions is complied with, that is to say –
- (a) the instruction in animal husbandry is given by a person registered in the register of veterinary surgeons or the supplementary veterinary register and the operation is performed under his direct personal supervision; and
 - (b) the instruction in animal husbandry is given at a recognised institution and the operation is performed under the direct personal supervision of a person appointed to give instruction at the institution.

The US

3.6 In the US, under the Model Veterinary Practice Act which is approved by the American Veterinary Medical Association Council on Education Executive Board, any owner of an animal and any of the owner's regular employees caring for and treating that animal is exempted from the Act (in other words, owners and their employees are free to treat the owner's animals). Notwithstanding this provision, a veterinarian-client-patient relationship must exist when prescription drugs or non-prescription drugs intended for extra-label use are administered, dispensed, or prescribed.

3.7 There are similar legislative provisions in the US state of Texas⁸, where a veterinarian-client-patient relationship exists if the veterinarian –

- (a) assumes the responsibility for medical judgements regarding the health of an animal and a client, who is the owner or other caretaker of the animal, agrees to follow the veterinarian's instructions;
- (b) possesses sufficient knowledge of the animal to initiate at least a preliminary diagnosis of the animal's medical condition; and
- (c) is readily available to provide, or has provided, follow-up medical care in the event of an adverse reaction to, or a failure of, the regimen of therapy provided by the veterinarian.

In addition, a veterinarian-client-patient relationship may not be established solely by telephone or electronic means.

Australia

3.8 In Queensland, Australia, the Veterinary Surgeons Act 1936 makes it an offence for any person who is not a veterinary surgeon to practise veterinary science. However, a person does not commit an offence if the person practises veterinary science other than for fee or reward⁹.

South Africa

3.9 In South Africa, it is stated in the Veterinary and Para-Veterinary Professions Act No. 19 of 1982 that no person shall in any manner whatsoever practise a veterinary profession or a para-veterinary profession unless he or she is registered or deemed to be registered in

⁸ Texas Occupations Code – Section 801.351. Existence Of Veterinarian-Client-Patient Relationship.

⁹ According to Section 25M of the Veterinary Surgeons Act 1936 (Queensland).

terms of that Act to practise the profession concerned¹⁰.

Singapore

3.10 In Singapore, the Animals and Birds Act provides that no person other than an authorised officer shall treat, vaccinate or inoculate any animal or bird except under and in accordance with the conditions of a licence issued by the Director-General, Agri-Food and Veterinary Services¹¹.

Issues for Consideration

3.11 In conducting the review, we have taken into consideration the following factors –

- (a) animal welfare is the main concern upheld by the VSRO;
- (b) a balance needs to be struck between safeguarding the welfare of animals and the wishes and practical needs of animal owners to treat their own animals; and
- (c) the fact that there is still a small agricultural sector which relies on animal farming should not be overlooked.

Proposals

3.12 It is proposed to amend the existing paragraph 4 of Schedule 2 of the VSRO to provide that –

- (a) an owner of an animal (or his / her employee or a member of his / her household) is exempted from the provisions of the VSRO when and only when he or she is treating his / her

¹⁰ According to Section 23 of the Veterinary and Para-Veterinary Professions Act No. 19 of 1982 (South Africa).

¹¹ According to Section 53 of the Animals and Birds Act, Chapter 7 of the Statutes of Singapore.

animal for remedy or prevention of illness purposes. Such treatment includes –

- (i) application of medicine topically and orally;
- (ii) application of medicine specific to that animal per-rectally, parenterally and by inhalation under the direction of a registered veterinary surgeon; and
- (iii) any other non-invasive acts of veterinary surgery or veterinary services as instructed (or advised) by a registered veterinary surgeon.

The list above is by no means exhaustive and we welcome any suggestions during this consultation.

- (b) the treatment should under no circumstances include any surgical incision in any part of the animal.
- (c) If the use of drugs which are controlled by an Ordinance such as the Dangerous Drugs Ordinance (Cap. 134), Antibiotics Ordinance (Cap. 137) or Pharmacy and Poisons Ordinance (Cap. 138) is deemed necessary, it should be prescribed and administered to the animal in compliance with the requirements of the relevant Ordinance.

3.13 For the prevention of injury and / or disease and better management and care of farm animals, it is further proposed to amend paragraph 4 of Schedule 2 of the VSRO to allow a livestock farmer who is a licensee under the Public Health (Animals and Birds) (Keeping of Cattle, Sheep and Goats) Regulation (Cap. 139C), the Dairies Regulation (Cap. 139D) or the Public Health (Animals and Birds) (Licensing of Livestock keeping) Regulation (Cap. 139L) (or his / her employee or a member of his / her household) to perform the following procedures –

- (1) the castration of a pig at 7 days of age or less;

- (2) the docking of the tail of a pig at 7 days of age or less;
- (3) the clipping of the teeth of a pig at 7 days of age or less;
- (4) the trimming of the beak of poultry at 10 days of age or less;
- (5) application of medicine topically, orally and per-rectally; and
- (6) application of vaccine and medicine by injections subcutaneously and intramuscularly.

3.14 To facilitate the Government in fulfilling its public responsibilities relating to public health, public safety, animal welfare and most of all disease monitoring and control, certain public officers may be required to perform certain veterinary acts. For example, government officers are required to collect blood or other samples from birds in the monitoring and control of avian influenza and to administer vaccines to animals in case of emergency. It is therefore proposed to amend the existing paragraph 6 of Schedule 2 of the VSRO to provide an exemption for a person who is employed or retained by the Government for the examination of animals, collection of samples, administration of medications or vaccinations, while performing such procedures or while performing any other procedures under the direction of a Government Veterinary Officer (who is also required to be a registered veterinary surgeon).

Invitation to Comment

3.15 Comments are invited on the following questions:

- (a) whether there is a need to limit the existing exemption provided to animal owners; and
- (b) if yes, whether the proposed amendments set out in paragraphs 3.12 – 3.14 are appropriate and / or sufficient.

CHAPTER 4 SUMMARY OF QUESTIONS

4.1 Comments are invited on the following issues –

<u>Chapter</u>	<u>No.</u>	<u>Issue</u>
2	(a)	whether there is a need to permit individuals who work under the direction and / or supervision of a registered veterinary surgeon to perform certain acts of veterinary surgery and provide certain veterinary services in Hong Kong;
	(b)	if your answer to (a) is in the affirmative, whether the proposals set out in paragraphs 2.21 – 2.26 are agreeable;
3	(a)	whether there is a need to limit the existing exemption provided to animal owners;
	(b)	if yes, whether the proposed amendments set out in paragraphs 3.12 – 3.14 are appropriate and / or sufficient.

4.2 Please send us your comments by post, facsimile or email **on or before 31 October 2011:**

Address: Technical Services Division
Inspection and Quarantine Branch
Agriculture, Fisheries and Conservation
Department
5/F, Cheung Sha Wan Government Offices
303 Cheung Sha Wan Road
Kowloon, Hong Kong

Fax number: (852) 2156 0215

Email address: tsdiq@afcd.gov.hk

- 4.3 It is voluntary for any member of the public to supply his / her personal data upon providing views on the consultation document. Any personal data provided with a submission will only be used for purpose of this consultation exercise.
- 4.4 The submissions and personal data collected may be transferred to the relevant Government bureaux, departments or agencies for purposes directly related to this consultation exercise. The relevant parties receiving the data are bound by such purposes in their subsequent use of such data.
- 4.5 The names and views of individuals and organisations which put forth submissions in response to the consultation document (“senders”) may be published for public viewing after conclusion of the consultation exercise. The Agriculture, Fisheries and Conservation Department (“AFCD”) may, either in discussion with others or in any subsequent report, whether privately or publicly, attribute comments submitted in response to the consultation document. We will respect the wish of senders to remain anonymous and / or keep the views confidential in relation to all or part of a submission; but **if no such wish is indicated, it will be assumed that the sender can be named and his / her views be published for public information.**
- 4.6 Any sender providing personal data to AFCD in the submission will have the right of access and correction with respect to such personal data. Any request for data access or correction of personal data should be made in writing to the contact specified in paragraph 4.2 above.

Regulation 65 of the Veterinary Surgeons Regulations 1979 of Western Australia

65. Duties and veterinary services that may be performed by veterinary nurses (s. 26(4)(b), 26E(4))

- (1) The duties and veterinary services set out in this regulation are prescribed for the purposes of sections 26(4)(b) and 26E(4) of the Act as duties and veterinary services that may be performed by a veterinary nurse.
- (2) A veterinary nurse may, in the presence of, and under the immediate and direct personal supervision of, a registered veterinary surgeon, assist the surgeon to perform surgical procedures.
- (3) The following duties and veterinary services may be performed by a veterinary nurse under the personal supervision of a registered veterinary surgeon –
 - (a) dental prophylaxis, including simple extraction of teeth;
 - (b) superficial surgical procedures (such as suturing skin);
 - (c) taking images using x-rays, ultrasound, ECG or similar imaging techniques, in accordance with the Radiation Safety Act 1975 and any other relevant written law;
 - (d) taking samples for the purposes of pathology tests;
 - (e) setting up and supervising intravenous drips and transfusions;
 - (f) inserting and removing indwelling catheters for the administration of intravenous fluids;

- (g) assisting with and monitoring the administration of anaesthetics; and
 - (h) monitoring the recovery of animals from anaesthesia.
- (4) The following duties and veterinary services may be performed by a veterinary nurse under the direction of a registered veterinary surgeon –
- (a) physically examining animals;
 - (b) giving general health advice in relation to weight loss, nutrition, parasite control and similar matters;
 - (c) isolating animals and carrying out barrier nursing;
 - (d) administering scheduled drugs;
 - (e) supplying to customers medication specified by the registered veterinary surgeon;
 - (f) dressing wounds and post-surgical care;
 - (g) supervising, caring for and nursing animals; and
 - (h) performing clinical pathology tests.

South Africa

Rules: Veterinary Nurses

GNR. 1065 of 17 May 1991: Rules relating to the practising of the profession of veterinary nurse

2. Services pertaining specially to the profession of veterinary nurse -
 - 2.1 For the purposes of the Act the following services shall be deemed to be services, which pertain specially to the Para-Veterinary profession of Veterinary Nurse:
 - 2.1.1 Basic animal care including the clipping of nails and beaks in birds, the clipping of nails in dogs and cats, and professional dental scaling and polishing.
 - 2.1.2 The collection and processing of samples, including skin scraping, the collection of urine and catheterisation, the collection of blood and vaginal smears, impression smears and sheath washing in bulls, but excluding the collection of samples by biopsy.
 - 2.1.3 The examination for purposes of recording and reporting findings to a veterinarian of samples, including haematology and blood chemistry, urine examination, stool examination, skin and scraping examinations, rumen fluid examination and examinations in which the Woods lamp is used.
 - 2.1.4 The administration of injections and medicines per os, subcutaneously, intramuscularly, intravenously or intraperitoneally.
 - 2.1.5 The administration of pre-medication and the induction and maintenance of anaesthesia but excluding epidural anaesthesia and nerve blocks.
 - 2.1.6 The taking and developing of radiographs, assistance with diagnostic imaging, maintenance of diagnostic imaging apparatus

and record keeping of diagnostic imaging.

- 2.1.7 The administration of enemas.
- 2.1.8 The passing of stomach tubes.
- 2.1.9 Intravenous catheter placement and the infusion of fluids and blood including the collection of blood for transfusion.
- 2.1.10 Supervision of animals giving birth and caring for newly born animals.
- 2.1.11 Wound care, the lancing of abscesses, superficial skin stitching, placing of dressing and bandages, including Robert Jones bandages.
- 2.1.12 Dispensing of medicines in accordance with relevant legislation.
- 2.1.13 The taking of samples for the diagnosis by a veterinarian of Brucellosis in animals and the testing of animals for tuberculosis by means of the intradermal tuberculin test provided that the Veterinary Nurse has passed a course approved by the Department of Agriculture.
- 2.1.14 Physical rehabilitation.
- 2.1.15 Assisting a person registered to practice a Veterinary profession with surgical procedures.
- 2.2 A veterinary nurse may also assist a person practising a veterinary profession with any other service, which such person may perform if such assistance is rendered under supervision, direct continuous supervision and by direction of that person.
- 2.3 Notwithstanding the provisions of rules 2.1 and 2.2 a Veterinary Nurse shall perform the services referred to in these rules only during the course of his or her employment—

- 2.3.1 by a person registered to practise a veterinary profession; or
- 2.3.2 by a person employing a person registered to practise a Veterinary profession.
- 2.4 In a case of emergency a veterinary nurse may also render other services which fall within his or her scope of training and experience and which are essential to save lives or relieve suffering in animals, on condition that a report thereon is made to the person referred to in rule 2.3 as soon as possible and the further treatment of such animal is entrusted to him or her or another person registered to practise a veterinary profession.
- 2.5 Rule 2 must not be construed in a manner so as to prohibit any other person registered to practise a Veterinary or Para-veterinary profession from performing procedures that pertain to their profession.

List of acts ^(note 1) proposed to be permitted if performed by an individual ^(note 2) under the direction or supervision of a registered veterinary surgeon

Item	Acts Allowed	Level of Supervision
1.	Administering medication or treatments orally, topically and per-rectally and inhalation	<p style="text-align: center;">Direction (i.e. the veterinary surgeon ^(note 3) instructs the individual to perform such acts while he / she is not necessarily present on the premises)</p>
2.	Positioning for and taking medical images	
3.	Giving injections by subcutaneous or intramuscular routes (excluding anaesthetics)	
4.	Non-invasive parameter monitoring e.g. blood pressure taking	
5.	Venous blood sampling from peripheral veins (excluding jugular veins)	<p style="text-align: center;">Supervision (i.e. the veterinary surgeon ^(note 4) gives specific instruction to the individual on how such acts should be performed and is present on the premises and able to respond to a request for assistance from the individual if needed)</p>
6.	Application of simple dressings such as a light support dressing and simple wound management	
7.	Placement of intravenous catheters at cephalic, saphenous or ear veins only	
8.	Administration of fluids or medications by intravenous route through a catheter	

9.	Teeth descaling or polishing	<p style="text-align: center;">Direct and Continuous Supervision (i.e. the veterinary surgeon ^(note 3) is present and giving the individual his / her direct personal attention throughout the process)</p>
10.	Endotracheal Intubation / Extubation	
11	Venous blood sampling from jugular veins	
12	Administering anaesthetics, monitoring and maintaining anaesthesia	
13	Assisting ^(Note 2) a registered veterinary surgeon who is performing and in charge of a medical or surgical procedure	
14	Application of complex dressings such as Robert Jones Bandage and more complex wound management	

Notes to Annex 3

1. The listed acts are by no means exhaustive and we welcome any suggestions during this consultation.
2. “An individual” here does not cover livestock farmers and certain public officers (please refer to paragraphs 3.13 and 3.14).
3. It is proposed in paragraph 2.26 of the consultation document that it should be stipulated in the Code of Practice that the registered veterinary surgeon shall be fully responsible for the acts performed by the individual under his / her direction or supervision.
4. “Assisting” means that the person is at no point allowed to make any decision regarding the medical or surgical procedure.