

立法會
Legislative Council

LC Paper No. CB(2)944/12-13(08)

Ref : CB2/PL/FE

Panel on Food Safety and Environmental Hygiene

**Updated background brief prepared by the Legislative Council Secretariat
for the meeting on 16 April 2013**

Regulation of pet trading

Purpose

This paper summarizes the concerns of the members of the Panel on Food Safety and Environmental Hygiene ("the Panel") on the regulation of pet trading.

Background

2. According to the Public Health (Animals and Birds) (Animal Traders) Regulations (Cap. 139B) ("the Regulations"), all animal traders, including those engaged in breeding of pet animals for trading purposes, must obtain an animal trader licence ("ATL") issued by the Agriculture, Fisheries and Conservation Department ("AFCD") and comply strictly with the statutory requirements concerning accommodation, living conditions, provision of food and water, pest control, etc. for their animals as stipulated in the Regulations as well as the relevant licensing conditions. AFCD conducts inspections on licensed animal traders from time to time or in response to public reports for compliance check. Any trader breaching the statutory requirements renders himself liable to prosecution.

3. The Administration has introduced additional licensing conditions on pet traders selling dogs since 1 February 2010 to tighten the control over the sources of dogs offered for sale. In 2011, a review was conducted by AFCD to assess the effectiveness of the additional licensing conditions in stopping illegal sourcing of dogs. The review also looked at the operation of the pet trade and identified areas where improvements were required in the legislation. In October 2012, a public consultation exercise was launched to solicit public views on the legislative proposals to better regulate pet trading, particularly the breeding and trading of dogs. The public consultation exercise ended on 30 November 2012.

4. According to the consultation document, the legislative proposals seek to -

- (a) remove the existing exemption that a person may sell his own pet and his pet's offspring (initially dogs only) without ATL;
- (b) introduce a permit system: any person who breeds and sells dogs, regardless of the number of animals involved, is required to apply for a licence or a permit. There will be four types of licence or permit, each catering for the specific needs of the following categories of persons:
 - (i) ATL, for anyone who sells dogs and/or other animals, but does not breed dogs;
 - (ii) Animal Breeder Licence Category A ("ABLA"), for anyone who keeps not more than four entire female dogs on one premises and sells his breeding dams or offspring of these dogs;
 - (iii) Animal Breeder Licence Category B ("ABLB"), for anyone who keeps five or more entire female dogs on one premises and sells his breeding dams, offspring of the dams or other dogs; and
 - (iv) One-off Permit, for any genuine pet owner who sells an individual dog that he owns;

- (c) introduce a code of practice which will form part of the licensing conditions and a legal requirement under the Regulations;
- (d) revise the permitted sources from which animal traders may acquire dogs;
- (e) increase the maximum penalty for illegal trading of animals and breaching of licensing conditions; and
- (f) empower the Director of Agriculture, Fisheries and Conservation to revoke or rescind the licences issued under the Regulations.

Deliberations of the Panel

5. The Panel held six meetings between 2008 and 2012 to discuss issues relating to the regulation of pet trading and received the views of deputations at two meetings. The deliberations and concerns of members are summarized below.

Regulation of pet breeding and trading

6. Noting that a person selling or offering to sell any animal kept by him as a pet or any offspring thereof did not need to apply for ATL under the existing legislation, many members pointed out that this might create a loophole for commercial breeders to operate under the disguise of private pet owners ("PPOs"). They urged the Administration to plug the loophole of the so-called "hobby breeders" who kept four or less female animals on one premises, gave out the offspring of the breeding animals for red packets, but in fact sold the animals for gain.

7. The Administration reassured members that suitable measures would be put in place to regulate the activities of anyone who bred dogs for sale, regardless of the number involved. In addition, the definition of "sale of animals" would cover the giving out of the offspring of breeding animals for any returns, such as red packets and other presents. Appropriate wording would be used to avoid creating loopholes.

8. Members noted the divergent views expressed by deputations on the Administration's proposals to regulate pet breeding and trading. While some members shared the views of some deputations that the proposed regulation should be in operation as soon as practicable so as to end any further suffering of pet animals due to unregulated pet breeding and trading, some other members noted the concerns of some deputations that the threshold of the proposed licensing system for the breeding of dogs for sale was too low and would attract new participants to the pet breeding and trading business. In particular, the proposed One-off Permit might create a loophole for home breeders to abuse the licensing arrangement. These members suggested that additional and more stringent licensing conditions, such as only one litter for one bitch, mandatory neutering and restriction on the breeding age should be adopted.

9. The Administration was of the view that relative to the current less than satisfactory situation, the proposed licensing system, by bringing all dog breeders (especially the hobby breeders) under regulation, represented a quantum leap forward in enhancing animal welfare.

Code of Practice for animal breeders

10. Members noted that the Administration would devise and issue a code of practice for animal breeders. They considered that the code of practice should cover the requirements for a minimum breeding age of female dogs and the maximum number of births for a female animal to give per annum. There was also a view that the Administration should require ordinary pet breeders to only allow their breeding female dogs to give birth once a year, as practised in New Jersey of the United States.

11. Some members noted the concerns of some animal breeders that the current requirements and licensing conditions were too wide and stringent which made it very difficult for them to successfully obtain a licence. Noting from the Administration's proposal that the code of practice would form part of the licensing conditions, members requested the Administration to consult the stakeholders including animal breeders on the draft code of practice.

Extending the licensing conditions to other animals

12. Members were advised that the Administration's proposal would address initially the breeding and trading of dogs only. This raised concern about the breeding and sale of cats. In some members' view, the Administration should introduce the proposed new measures for the trading of dogs and cats simultaneously. They sought information on the timetable for the extension of the proposed measures to cover the breeding and sale of cats.

13. According to the Administration, dogs comprised the largest share of the pet market and, based on the number of convicted and investigated cases, the welfare of dogs was compromised more often than other species. In this connection, the Administration would first introduce regulatory measures for the breeding and trading of dogs. A model for cats and other pet animals would be devised with reference to the experience gained on the implementation of the proposed measures for dogs.

Members' Motions

14. At the Council meeting of 16 January 2008, a motion without legislative effect was moved and passed with amendments urging the Administration to better control the sale and breeding of animals to protect pet owners and safeguard animal rights. The motion as amended is in **Appendix I**.

15. A motion without legislative effect was also moved and passed with amendments at the Council meeting of 3 November 2010 urging the Administration to formulate an "animal-friendly policy" to ensure that the rights of animals could be safeguarded. The motion as amended is in **Appendix II**.

Recent developments

16. At the special meeting of the Panel on 21 January 2013 to receive a briefing from the Secretary for Food and Health on the 2013 Policy Address in relation to food safety and environmental hygiene matters, members noted that AFCD was formulating the licensing conditions and a code of practice in consultation with relevant stakeholders, with a view to introducing the legislative proposals within 2013.

Relevant papers

17. A list of the relevant papers on the Legislative Council website is in **Appendix III**.

Council Business Division 2
Legislative Council Secretariat
10 April 2013

(Translation)

**Motion on
“Protecting the rights and interests of animals”
moved by Hon Albert HO Chun-yan
at the Legislative Council meeting
of Wednesday, 16 January 2008**

**Motion as amended by Hon WONG Kwok-hing, Hon Audrey EU Yuet-mee and
Hon CHOY So-yuk**

“That, although the Prevention of Cruelty to Animals (Amendment) Bill 2006 was passed by this Council last year to increase the penalty for cruelty to animals, incidents of animal cruelty still continue to occur; in order to protect the rights and interests of animals, this Council urges the Government to adopt various measures to ensure that animals are protected under the law; the relevant measures should include:

- (a) comprehensively reviewing and amending the Prevention of Cruelty to Animals Ordinance, including reviewing the definition of cruelty to animals and making abandonment of animals an offence of animal cruelty;
- (b) improving the licensing and regulatory system for the sale and breeding of pets and consulting the public before amending the Public Health (Animals and Birds) Ordinance and the relevant regulations, extending the animal registration system to cover cats and other kinds of animals that are commonly kept as pets, improving the licensing and regulatory system for pet shops and breeding farms, introducing legislation to regulate the sources of animals for sale in pet shops, requiring that all such animals should come from licensed breeding farms, and stepping up enforcement actions against unlicensed breeding, so as to stop the entry of animals from unknown sources into the pet market;
- (c) enhancing the transparency of the Agriculture, Fisheries and Conservation Department in its handling of stray dogs and cats, treating the animals kindly, abandoning the ‘Trap-and-Kill’ method, cooperating with community organizations in jointly promoting the ‘Trap-Neuter-Return’ programme, and using humane means to deal with the problem of stray dogs and cats, with a view to reducing their number in the community;
- (d) requiring law enforcement officers to actively handle the reports on cruelty to animals from the public, considering drawing on overseas experience to set up ‘animal police’ teams specially tasked to investigate cases of animal cruelty and abandonment, and rigorously enforcing the law to curb the situation of animal cruelty and abandonment from becoming prevalent;
- (e) studying the provision of places at suitable locations for animals to move around, including providing more parks and leisure venues which are accessible to dogs and cats;

- (f) actively identifying suitable locations for the provision of public toilets for dogs, so as to make available suitable places for dogs to toilet and improve the environmental hygiene of streets;
- (g) actively identifying suitable locations for placing dog excreta collection bins in areas or streets where public toilets for dogs cannot be provided, and increasing the frequency of cleaning and washing to improve environmental hygiene;
- (h) regulating by licensing hospice service for animals;
- (i) improving the situation of fragmentation of responsibilities in dealing with the rights and interests of animals, and clearly designating a responsible department to avoid confusion over the implementation of policies;
- (j) advising pet shops and private/domestic pet breeders that when selling pets to prospective pet keepers, the former should follow the practice of animal groups in dog adoption by confirming that the deeds of mutual covenant of the buildings where the dog keepers live state that the keeping of dogs is not objected to, so as to reduce the chance of the dogs concerned being abandoned in the future;
- (k) further educating the public on the concept of animal care and responsible pet ownership, and providing incentives to encourage people to arrange their pets to undergo sterilization and regular physical examinations;
- (l) ensuring that all dogs are implanted with microchips to fully implement the existing statutory requirements, thereby enabling the relevant authorities to track down the owners of the abandoned dogs according to the stored information and enforcing the penalties; and
- (m) further educating the public to, before proceeding to keep dogs, carefully consider and ascertain that the deeds of mutual covenant of the buildings where they live state that the keeping of dogs is not objected to and to truly behave as responsible pet owners, so as to reduce the chance of the dogs concerned being abandoned in the future.”

(Translation)

**Motion on
“Formulating an animal-friendly policy”
moved by Hon CHAN Hak-kan
at the Legislative Council meeting
of Wednesday, 3 November 2010**

Motion as amended by Hon Miriam LAU Kin-ye, Hon Fred LI Wah-ming, Hon WONG Kwok-hing, Dr Hon PAN Pey-chyou, Hon Alan LEONG Kah-kit and Hon Cyd HO Sau-lan

That, given that the keeping of pets among Hong Kong people has become increasingly common, and there is also a growing concern about the rights of animals; however, the animal welfare policy in Hong Kong lags far behind the standards of other developed places in the world, and cases of animal cruelty keep occurring; tens of thousands of animals are euthanized every year, and there is still insufficient activity space for the integration of human beings and animals within the communities; in this connection, this Council urges the Government to formulate an ‘animal-friendly policy’ to ensure that the rights of animals can be safeguarded; the relevant policy measures should include:

- (a) by making reference to the present animal protection legislation in developed places, to review and amend the existing Prevention of Cruelty to Animals Ordinance for the purpose of catching up with international standards, and to classify the intentional abandonment of animals as animal cruelty, as well as to explore the provision of compulsory psychological counselling and courses on animal protection to convicted persons;
- (b) to establish ‘animal police’ teams specially tasked to investigate cases of animal cruelty and abandonment, enhance the training of frontline enforcement officers on handling cases of animal cruelty and their awareness of such cases, and set up a ‘dedicated hotline for reporting animal cruelty’, with a view to curbing the situation of animal cruelty and abandonment from becoming prevalent;
- (c) to request the Department of Justice to pay close attention to the sentencing for cases of animal cruelty, and where sentencing for the cases concerned cannot fully reflect their seriousness, to seek sentencing guidelines by applying for reviews of sentences to the relevant courts, so as to truly reflect the social concern about offences of animal cruelty;
- (d) to improve the existing management mechanism for the sale and registration of animals, including reviewing the licensing and regulatory mechanism for the sale and breeding of pets and stepping up the monitoring of the sources of animals, so as to combat problems such as unlicensed animal breeding, online sale and illicit animal import;

- (e) to improve the hygiene conditions in the animal management centres under the Agriculture, Fisheries and Conservation Department and enhance the transparency of stray animal management by allowing Members and animal rights organizations to conduct regular inspections, increase the number of qualified animal adoption organizations and expand the scope of animals for adoption to reptiles and amphibians, so as to facilitate the adoption of animals by a greater number of people and organizations;
- (f) to co-operate with District Councils and animal rights organizations to fully implement the 'Trap-Neuter-Return' programme, employ animal capture devices that inflict the least injury, and use humane means to deal with the problem of stray cats and dogs;
- (g) to provide subsidy to the public for neutering their pets, and train more veterinary health care personnel to meet the social demand for the services concerned;
- (h) to introduce appropriate measures, including identifying sites in all districts in Hong Kong for constructing more parks for pets, and exploring the opening of various recreational venues such as parks and beaches partially or at specific time slots, so that members of the public can bring in their pets;
- (i) to actively identify suitable locations for the provision of public toilets for dogs, increase the number of dog excreta collection bins on street side and step up the frequency of cleaning and washing, with a view to improving environmental hygiene; at the same time, to step up inspection and prosecution against owners who indiscriminately allow their animals to excrete anywhere;
- (j) to explore the regulation of hospice service for animals through licensing;
- (k) to step up publicity and education for the public on animal care and responsible pet ownership, and set up an 'animal protection fund', so that organizations can make applications for organizing more animal welfare and adoption activities;
- (l) to enhance people's understanding of endangered animals and relevant regulatory systems, and require that animal traders must provide appropriate labels for identifying endangered species, as well as to provide buyers with points to note on keeping endangered species, with a view to strengthening the management of endangered animals;
- (m) to examine the extension of the microchipping and licensing schemes to cats, so as to help owners reclaim their missing cats, prevent the abandonment of cats by irresponsible owners and institute prosecutions against them;
- (n) to examine the establishment of public animal hospitals or clinics to provide pet owners with affordable animal treatment services; and

- (o) to examine the setting up of a mechanism for monitoring food products for pets and relevant labels, so as to safeguard the quality and safety of food products for pets;
- (p) to establish a licensing system for professional breeders to ensure that commercial breeders have adequate breeding knowledge and ethical standards;
- (q) to permit eligible members of the public to directly adopt animals; and
- (r) to explore the provision of subsidy to recognized animal adoption organizations, so that they can have sufficient resources for keeping abandoned animals, thereby reducing the number of animals eventually euthanized;
- (s) by making reference to and studying the successful experience of foreign places in protecting and conserving endangered wild animals, to adopt positive environmental conservation measures to salvage endangered wild animals in Hong Kong, such as Romer's tree frogs, black-faced spoonbills, common birdwings, Chinese grassbirds, Hong Kong newts, Chinese white dolphins and horseshoe crabs, so as to protect the precious ecological resources of Hong Kong; and
- (t) to join hands with the relevant District Councils, rural committees and conservation organizations to expeditiously explore various proper arrangements and measures on handling the miserable stray cattle in Hong Kong that are left to live or perish on their own, to provide support by allocating appropriate resources, and to tackle the relevant issues as early as possible through the following measures:
 - (i) to actively and expeditiously explore the identification of suitable sites for stray cattle in Hong Kong, so as to enable them to live in a safe and natural environment without having to wander around any more, while at the same time ensure the maximum safety of both human beings and cattle in their co-existence; besides, to actively explore the development of the above-mentioned sites as green eco-tourism projects;
 - (ii) to allocate resources for neutering the stray cattle in the New Territories, so as to avoid the incessant breeding of stray cattle; and
 - (iii) to actively study the introduction of effective measures, including providing additional resources to support those volunteers and non-profit-making voluntary organizations which are keen on adopting stray cattle in Hong Kong, so that they can have sufficient means to provide the stray cattle adopted by them with basic nutrition and attention;

- (u) to review and amend the policy on managing wild animals, so as to provide them with reasonable and safe room for survival, and at the same time protect the public from being disturbed or hurt; and
- (v) to co-operate with neighbouring regions, and step up the studies on and the monitoring of zoonotic diseases, in particular those transmittable to human beings, thereby protecting the health of animals while enhancing epidemic prevention;
- (w) to empower the court to issue orders forbidding repeated offenders or convicted persons involved in the Prevention of Cruelty to Animals Ordinance and serious cases from keeping animals;
- (x) to set up animal shelters and adoption centres under the Agriculture, Fisheries and Conservation Department, so as to reduce the need for euthanizing animals;
- (y) to examine, on humanitarian grounds, the enactment of legislation on prohibiting the breeding and importation of animal species suffering from genetic diseases that cause them pain, such as Scottish Folds suffering from osteochondrodysplasia;
- (z) to foster co-operation among the Agriculture, Fisheries and Conservation Department, the Lands Department, the Housing Department and other relevant government departments, so that when clearing villages, they will pay attention to the fact that residents therein normally keep a number of animals, and hence they should make a detailed record of all animals in the villages concerned before clearance, and strive to make timely and appropriate arrangements for animals that cannot follow their owners upon moving homes; and
- (aa) to examine the practice of allowing animal owners who are adequately equipped to board public transport with their animals;
- (ab) to advocate the responsibilities of keepers and owners, and ensure that both wild and domesticated animals can receive humane treatment; and
- (ac) to review the policy on the keeping of animals by public housing tenants.

Regulation of pet trading

Committee	Date of meeting	Paper
Legislative Council	16.1.2008	Motion moved by Hon Albert HO on "Protecting the rights and interests of animals" Official Record of Proceedings (pages 212 to 258) Progress report
Panel on Food Safety and Environmental Hygiene	19.2.2008 (Item IV)	Agenda Minutes
Panel on Food Safety and Environmental Hygiene	13.5.2008 (Item VI)	Agenda Minutes
Panel on Food Safety and Environmental Hygiene	9.6.2009 (Item IV)	Agenda Minutes
Legislative Council	3.11.2010	Motion moved by Hon CHAN Hak-kan on "Formulating an animal-friendly policy" Official Record of Proceedings (pages 205 to 274) Progress report
Panel on Food Safety and Environmental Hygiene	14.6.2011 (Item VI)	Agenda Minutes

Committee	Date of meeting	Paper
Panel on Food Safety and Environmental Hygiene	10.4.2012 (Item V)	Agenda Minutes
Panel on Food Safety and Environmental Hygiene	13.11.2012 (Item IV)	Agenda Minutes

Council Business Division 2
Legislative Council Secretariat

10 April 2013