

**For discussion
on 13 November 2012**

LegCo Panel on Food Safety and Environmental Hygiene

Public Consultation on Proposals to Better Regulate Pet Trading

INTRODUCTION

The Administration published a consultation document (copy at Annex) on 3 October 2012, inviting public views on proposed measures to better regulate pet trading in the interest of enhancing animal health and welfare. This paper highlights the major issues therein.

BACKGROUND

2. The Public Health (Animals and Birds) (Animal Traders) Regulations (Cap. 139B) regulate the activities of animal traders¹. At present, all animal traders must obtain an Animal Trader Licence (“ATL”) issued by the Director of Agriculture, Fisheries and Conservation (“DAFC”). Any trader breaching the statutory requirements or the relevant licensing conditions imposed by DAFC renders himself liable to prosecution.

3. As previously reported to the Panel in April 2012, we have reviewed the operation of the pet trade, the related enforcement action and legislation and identified a number of improvement measures. A public consultation exercise is now being conducted to gauge public views on the recommendations before the legislative proposals are finalised.

PROPOSED MEASURES

(A) To tighten regulation of animal breeders

4. Under the current legislation, a person may sell his own pet (and his pet’s offspring) without an ATL. This exemption has been

¹ According to regulation 2 of Cap. 139B, an “animal trader” means a person who sells or offers to sell, animals or birds other than a person selling or offering to sell any animal or bird kept by him as a pet or any offspring thereof.

exploited by some commercial breeders who operate under the guise of a private pet owner (“PPO”), thereby circumventing the relevant regulation and leading to public health and animal welfare concerns. This has been shown to be particularly problematic in the case of dogs. We consider that the loophole must be plugged and these “de-facto” commercial breeders should be subject to necessary licensing conditions to ensure animal health and welfare as well as public health.

Removal of exemption of PPOs in relation to dogs

5. We propose to remove the exemption that a person may sell his own pet (and his pet’s offspring) without an ATL. Any person who sells dogs must obtain a licence or permit, irrespective of the number of dogs involved, and whether the dog involved is the person’s own pet or the offspring of his pet. There will be four types of licence/permit, each catering for the specific needs of the following categories of persons. They are :

- (a) ATL, the type of licence which is currently in place, for anyone who sells dogs and/or other animals, but does not breed dogs;
- (b) Animal Breeder Licence Category A (“ABLA”)² for anyone who keeps not more than four entire female dogs on one premises and sells his breeding dams or offspring of these dogs;
- (c) 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 dogs³; and
- (d) One-off Permit for any genuine pet owner who sells an individual dog that he owns⁴.

² We propose that an individual should be limited to one ABLA. This is to avoid situations where misbehaving traders bypass the more stringent requirements of ABLB by applying for multiple ABLAs.

³ ABLB holders, being commercial breeders engaged in dog breeding/keeping activities of a larger scale, would be subject to more stringent requirements as compared with ABLA holders.

⁴ Pet owners must have had the dog licensed under their names for a minimum of four months. Each permit is valid for one transaction covering one dog only. A limit of two such permits may be issued within a 24-month period to a single applicant, thus preventing the use of the permit by commercial animal traders to bypass the requirement to apply for an ATL.

6. For a start, the withdrawal of the exemption will apply to dogs only. Owners of other animals will still be allowed to sell their own pets or their offspring without a licence. Dogs are targeted at the first stage because they comprise by far the largest share of the pet market and, based on past investigation records and conviction cases, the welfare of dogs (kept for breeding purposes) was compromised more frequently and to a greater extent than other types of pet.

7. We also propose that all licence/permit holders must declare his licence/permit number in every transaction and promotion of sale involving dogs. Anyone who sells or advertises to sell a dog without a valid licence/permit will be liable to prosecution.

Licensing conditions and Code of Practice

8. In addition, all licensees must comply with a Code of Practice (“CoP”) which will form part of the licensing conditions and be a legal requirement under Cap. 139B. With the introduction of two new categories of breeder licence (namely ABLA and ABLB), AFCD will introduce a CoP on breeding animals for sale, which will form part of the licence conditions of the breeder licence. The CoP will detail requirements for space, ventilation, lighting and exercise etc. under the licensing system, thus ensuring that dogs under the care of the licence holder are kept under acceptable welfare standards. A summary of the proposed licensing conditions including the main elements of the proposed CoP is given in Annex 2 to the consultation document at **Annex**. The CoP will vary depending on the category of licence. For example, an ABLB holder will be subject to more stringent conditions than an ABLA holder.

Revised Permitted Sources of Dogs

9. We also propose to revise the permitted sources from which animal traders may acquire dogs. Following such revisions, animal traders may only obtain dogs from the following sources, but not from PPOs who do not have a licence or permit –

- (a) legally imported and covered by a valid import permit issued by DAFC, together with a valid health certificate issued by the veterinary authority of the exporting place; or
- (b) acquired from ATL, ABLA, ABLB or One-off Permit holders.

(B) To increase penalties under Cap. 139B

10. The maximum penalties for a breach of licensing conditions and illegal trading of animals under Cap. 139B are \$1,000 and \$2,000 respectively. Such penalty levels, relative to the sale price of a pet animal which may run up to tens of thousands of dollars, pose little deterrence against malpractice.

11. It is proposed that the maximum penalties for a breach of licensing conditions should be raised from \$1,000 to a fine at Level 5 (i.e. \$50,000), and that for illegal trading of animals be raised from \$2,000 to a fine at Level 6 (i.e. \$100,000). This will serve more effectively to deter animal traders and breeders from breaching the regulations, and thus offering better protection to animal welfare and public health.

(C) To provide DAFC with power to revoke ATL for offences under Cap. 169

12. There is currently no specific provision in Cap. 139B that empowers DAFC to revoke an ATL if the licensee has been convicted of an offence related to cruelty to and maltreatment of animals under the Prevention of Cruelty to Animals Ordinance (Cap. 169).

13. In order to prevent unsuitable persons from running animal trading businesses (including breeding and selling dogs), we propose to amend Cap. 139B to provide DAFC with the specific power to revoke or rescind the licences issued under Cap. 139B. Circumstances warranting revocation of a licence include offences related to cruelty to and maltreatment of animals under Cap. 169. This proposal will help ensure that individuals who have had a history of offences relating to the welfare of animals will no longer be able to run a business overseeing the care of animals.

WAY FORWARD

14. Members of the public have been invited to forward to us their views on the proposed measures set out in the consultation document by 30 November 2012. We will take into account the views received when finalising the legislative proposals.

ADVICE SOUGHT

15. Members are invited to comment on the proposed measures set out above.

**Food and Health Bureau
Agriculture, Fisheries and Conservation Department
November 2012**

Consultation Document

Better Regulating Pet Trading to Enhance Animal Health and Welfare

October 2012



食物及衛生局
Food and Health Bureau



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

CONSULTATION DOCUMENT

**BETTER REGULATING PET TRADING
TO ENHANCE ANIMAL HEALTH
AND WELFARE**

**Food and Health Bureau
Agriculture, Fisheries and Conservation Department
October 2012**

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EXECUTIVE SUMMARY

Purpose

1. This paper outlines the Government's proposals to better regulate pet trading, including the breeding and trading of dogs, in the interest of enhancing animal health and welfare. Legislative amendments to the Public Health (Animals and Birds) (Animal Traders) Regulations (Cap. 139B) will be required to implement the proposals.
2. Views from the public are invited on the various proposals contained in this consultation document. Please let us have your views on or before 30 November 2012, using the address set out in Chapter 6.

Background

3. The Government of Hong Kong attaches great importance to safeguarding public health, animal health and animal welfare. Over recent times, there has been growing awareness of issues related to animal health and welfare in the community, and also a rapid expansion of animal trading activities. The Government has recently reviewed the modus operandi of the pet trade, its current enforcement action and legislation. We have identified a number of issues that we need to act on through legislative amendments.

Areas of Concern

Insufficient deterrent effect under the Public Health (Animals and Birds) (Animal Traders) Regulations (Cap. 139B)

4. The maximum penalties for a breach of licensing conditions and illegal trading of animals under Cap. 139B are \$1,000 and \$2,000 respectively. Such penalty levels, relative to the sale price of a pet animal which may run up to tens of thousands of dollars, pose little deterrence against malpractice. There is a need to increase the penalties accordingly.

No power to revoke Animal Trader Licences for offences under Cap. 169

5. There is currently no specific provision in Cap. 139B that empowers the Director of Agriculture, Fisheries and Conservation (DAFC) to revoke an Animal Trader Licence if the licensee has been convicted of an offence related to cruelty to animals under the Prevention of Cruelty to Animals Ordinance (Cap. 169).

Limited oversight of the breeding and sale of pets by private individuals

6. Currently, a person may sell his own pet (and his pet's offspring) without an Animal Trader Licence. This exemption has been exploited by commercial breeders who choose to operate under the guise of a private pet owner, thereby circumventing regulation through licensing conditions and leading to public health and animal welfare concerns. This has been shown to be particularly problematic in the case of dogs.

Proposed measures

Increased penalties under Cap. 139B

7. It is proposed that the maximum penalty for illegal trading of animals should be raised from Level 1 (\$2,000) to level 6 (\$100,000), and for breaches of licensing conditions from \$1,000 to a level 5 fine (i.e. \$50,000). This will serve to more effectively deter animal traders and breeders from breaching the regulations, thus offering better protection to animal welfare and public health.

Power to revoke Animal Trader Licences for offences under Cap. 169

8. In order to prevent unsuitable persons from running animal trading businesses, we propose to amend Cap. 139B to provide additional power for DAFC to revoke the licences of licensees who have contravened the Prevention of Cruelty to Animals Ordinance (Cap. 169). Circumstances warranting revocation of a licence include offences related to cruelty to and maltreatment of animals.

Licensing of persons who breed and sell dogs

9. We propose that any person who sells dogs, including his own pet or the offspring of his pet, should be required to obtain a licence or permit. The type of licence or permit issued will depend on the nature of the operation and the number of dogs being kept or sold. In addition, all licensees must comply with a Code of Practice which will form part of the licensing conditions and be a legal requirement under Cap. 139B. The Code will help ensure that animal health and welfare standards are kept up to date. The Code of Practice will be developed in consultation with the Animal Welfare Advisory Group and other relevant stakeholders.

CHAPTER 1 BACKGROUND

- 1.1 The Government attaches great importance to animal welfare and management. Our policy objective is to ensure that animals and people co-exist in a harmonious way in Hong Kong. In achieving this, we need to strike a balance between the well-being of people in Hong Kong on the one hand and the welfare of animals on the other.
- 1.2 In concrete terms, the Government is responsible for, amongst other things, the regulation of animal trading and related businesses (such as animal boarding and animal exhibitions), management of pet and stray animals, prevention of animal cruelty and promotion of animal welfare.
- 1.3 We have been promoting animal welfare in line with the changing values and expectations of the community. In keeping with increasing public awareness of issues related to animal welfare, we have put into effect legislative and administrative measures to better safeguard the welfare of animals. For instance, in 2006, the penalty for conviction of animal cruelty acts under the Prevention of Cruelty to Animals Ordinance (Cap. 169) was increased substantially to a maximum fine of \$200,000 and three years' imprisonment. In the past three years, there have been 35 successful prosecution cases under Cap. 169.
- 1.4 The Government continues to put our animal welfare-related measures and practices under regular review. We will explore new approaches on this front and, taking into consideration the views of the community, implement new measures to further enhance animal welfare.

CHAPTER 2 REGULATION OF PET TRADE

- 2.1 The Public Health (Animals and Birds) (Animal Traders) Regulations (Cap. 139B) (the Regulations) regulate the activities of an “animal trader” (meaning a person who sells or offers to sell, animals or birds other than a person selling or offering to sell any animal or bird kept by him as a pet or any offspring thereof). Under regulation 4 of the Regulations, no person shall carry on a business as an animal trader unless under a licence (i.e. an Animal Trader Licence (ATL)) issued by the Director of Agriculture, Fisheries and Conservation (DAFC). The Regulations also empower DAFC to attach appropriate conditions to the licence, to ensure effective control is placed on the business, to safeguard animal welfare, public health and safety¹.
- 2.2 Accordingly, all animal traders, including those engaged in breeding of pet animals for trading purposes, must obtain an ATL from the Agriculture, Fisheries and Conservation Department (AFCD). They have to 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 imposed by DAFC. Any trader breaching these requirements renders himself liable to prosecution.
- 2.3 As animals are kept by animal traders for business but not as pets, we see a need to monitor closely the performance of these traders to ensure that animal health and welfare are not compromised. The licensing conditions of pet traders are also kept under review and will be updated as and when necessary. For instance, we amended the licensing conditions for pet bird traders in 2007 to prohibit selling of

¹ **Regulation 5 Power of Director to license animal traders**

- (1) Upon application in the form specified by the Director and payment of the fee referred to in paragraph (5) the Director may grant a licence to any person to
- (a) carry on business as an animal trader;
 - (b) keep animals for the purpose of such business in the premises in respect of which the licence is granted.
- (2) A licence shall not be granted or renewed unless the Director is satisfied that the primary enclosures, housing facilities and outdoor areas in which the applicant or licensee, as the case may be, intends to keep the animals or birds, conform to the standards specified in regulation 6.
- (3) The Director may attach to a licence such conditions as he may think fit.

sick birds and to require that all birds have to come from approved sources.

2.4 In February 2010, additional licensing conditions were imposed on pet traders selling dogs to address the concern that dogs from unknown sources could bring about animal health and welfare issues, as well as an increased public health risk of zoonotic diseases, notably rabies. These additional conditions tighten our control over the sources of dogs offered for sale and stipulate that pet traders may only obtain dogs for sale from the following sources, namely –

- (a) legally imported and covered by a valid import permit issued by AFCD, together with a valid health certificate issued by the veterinary authority of the exporting place;
- (b) acquired from other licensed animal traders with appropriate documentation (e.g. invoice, sale receipt, etc.) detailing the microchip number, breed, quantity, date of transaction and source; or
- (c) acquired from a private pet owner. For transaction involving a dog under five months of age, there must be an accompanying certificate issued by a registered veterinary surgeon along with an owner declaration verifying that the concerned dog is the offspring of the licensed dog specified in the declaration.

2.5 AFCD has since then further stepped up inspection of licensed pet shops for compliance check. Extra efforts have also been made to investigate into reports of suspected illegal dog trading activities. Animal traders found to be in breach of the licensing conditions are liable to prosecution and a fine.

2.6 One year after the implementation of these new additional licensing conditions, AFCD conducted a review to assess the effectiveness of the new measures in stopping illegal sourcing of dogs. The opportunity was also taken to review the efficacy of our enforcement actions under the Regulations to see if further improvements were required. On the basis of the findings of the review and the advice

from the Animal Welfare Advisory Group², AFCD has identified a few areas when there is room for further enhancing our regulation of the pet trade, in particular regarding the sources of pet dogs offered for sale, with a view to better safeguarding animal health and welfare, as well as public health. The review findings and the proposed new measures are set out in the following chapters.

² The Animal Welfare Advisory Group was established in 1996 to advise the Government on animal welfare and related matters. The ambit of AWAG and its committees covers the review of animal legislation, regulation and control of the pet trade, education and publicity programmes, etc. Its current membership comprises representatives from a wide spectrum of fields covering veterinary science, animal welfare and management, the pet trade as well as other professionals.

CHAPTER 3 FINDINGS OF THE REVIEW

Compliance with the additional conditions - Sources of pet dogs

- 3.1 As at 15 August 2012, there are 431 licensed animal traders. Among them, 145 engage in dog trading only. Since February 2010, AFCD has carried out over 8 000 inspections and found that these animal traders have generally complied with the additional licensing conditions and all dogs from licensed pet traders were obtained from legal sources as required under the additional conditions. There were only seven prosecution cases in relation to breaches of the additional conditions, all of them pertaining to incomplete documentation in respect of dogs for sale, for example, missing vaccination certificates, and they were all convicted, with a fine between \$500 and \$2,000 (which is the maximum penalty under the Regulations). Follow-up actions have been taken to ensure compliance with the licensing conditions such that sources for all dogs for sale by the pet traders can be verified.
- 3.2 During the period from February 2010 to July 2011, AFCD has inspected the records of the then 155 pet traders engaged in dog trading only to identify the sources of the dogs for sale. It is observed that almost all (i.e. 99%) dogs sold by these pet traders during that period were less than five months old. Amongst 11 542 dogs sold in these licensed pet shops, 22% were imported and 4% were obtained from licensed commercial animal breeders whilst the remaining 74% were sourced locally from self-claimed private pet owners (PPOs). Further analysis showed that 16 major pet traders (who accounted for almost half of all dogs sold in Hong Kong) sourced over 90% of their dogs from self-claimed PPOs. Furthermore, ten out of the 16 major traders consistently had more than 50% of their dogs supplied from just one or two PPOs. It is estimated that each PPO on average owns five bitches, each giving birth to four puppies per litter on average. Each PPO sells two dogs to pet traders per month on average. These figures strongly suggest that these self-claimed PPOs are very likely not hobby breeders. Rather, they are breeding dogs for commercial purpose. In an

enforcement action taken by AFCD in mid-March 2011, a self-claimed PPO was found to be operating an illegal dog breeding facility with over 90 dogs. The offender was convicted for carrying on business as an animal trader otherwise than under a licence and was fined \$1,200.

- 3.3 At present, the Regulations do not require a person selling or offering to sell any animal kept by him as a pet or any offspring thereof to apply for an animal trader licence. This has created a loophole for some commercial animal breeders to operate under the guise of PPOs, thereby circumventing regulation through licensing conditions, including requirements on housing facilities, hygiene of the premises and the health status of the breeding dogs.
- 3.4 In 2011, several cases investigated by AFCD revealed that the welfare conditions of dogs kept on the premises of some of the self-claimed PPOs were far from satisfactory. In some cases, dogs were kept inside cages barely large enough for them to move around, and there was not a sufficiently large exercise area provided. The loophole in the Regulations has made it difficult for AFCD to gather sufficient evidence to prosecute the de-facto traders disguised as PPOs selling their own pets (or their offspring). Public health and safety as well as animal health and welfare might be at risk.
- 3.5 We therefore propose to plug the loophole by subjecting these “de-facto” commercial breeders to necessary licensing conditions for protecting public health and animal welfare. In future, a person has to apply for a licence or permit if he wishes to sell a dog or to breed dogs for sale. The detailed proposals are set out in Chapter 4.

Insufficient deterrence under Cap. 139B

- 3.6 Regulation 13(1) of the Regulations states that any person who contravenes regulations 4(1)(a)³, 11⁴ or 12⁵ shall be guilty of an

³ Under regulation 4(1)(a), a person shall not carry on business as an animal trader otherwise than under a licence.

⁴ Under regulation 11, no person shall hawk an animal or bird.

⁵ Under regulation 12, no person shall sell an unweaned animal.

offence and shall be liable on conviction to a fine at level 1 (\$1 to \$2,000).

- 3.7 Under regulation 13(2), a licensed animal trader who contravenes any condition specified in his/her licence; or regulations 4(1)(b)⁶ or 7⁷; or fails to comply with husbandry and sanitation requirements stated in regulation 9 (of Cap. 139B); or fails to keep certain animals separately as stipulated in regulation 10 (of Cap. 139B) shall be guilty of an offence and shall be liable on conviction to a fine of \$1,000.
- 3.8 The maximum penalties outlined in the preceding paragraphs are considered to be insufficient to deter illegal trading of animals or non-compliance with the licensing conditions, when compared with the commercial price tag of popular pet animals, which saw significant increases in recent years. The price of a puppy could range from \$2,000 to \$10,000 and even more on some occasions. We propose to increase the maximum penalties to levels set out in Chapter 5, for achieving sufficient deterrence.

No power to revoke Animal Trader Licences for offences under Cap. 169

- 3.9 The Regulations aim to safeguard animal health and welfare, as well as public health. However, there is currently no specific provision in Cap. 139B that empowers DAFC to revoke or rescind an ATL if the licensee has been convicted of an offence related to cruelty to animals under the Prevention of Cruelty to Animals Ordinance (Cap. 169). Thus, he might continue to operate as an animal trader, with the health and welfare of the animals under his care placed under jeopardy. This is far from being satisfactory.

⁶ Under regulation 4(1)(b), a person shall not keep animals for the purpose of his/her business as an animal trader other than in the premise in respect of which a licence is granted.

⁷ Under regulation 7, where a licence has been granted, the licensee shall not, thereafter, save with the permission in writing of the Director, make any material alteration or modification to the primary enclosure, housing facilities or outdoor area.

3.10 It is not an uncommon practice in many countries overseas to disqualify a person from keeping animals and depriving him or her of any animals currently being kept, if he or she has been convicted of animal cruelty. We propose to empower DAFC to revoke an ATL under certain circumstances, as set out in Chapter 5.

CHAPTER 4 PROPOSALS TO REGULATE THE BREEDING OF DOGS FOR SALE

Removal of exemption of PPOs in relation to dogs

- 4.1 As discussed in Chapter 3, there exists a loophole in the Regulations which enable “de-facto” commercial breeders to avoid licensing conditions by claiming themselves as PPOs. We propose to remove the current exemption under the Regulations that a person may sell or offer to sell any animal kept by him as a pet or any offspring thereof without a licence. We intend to start with dogs and may consider extending this to cover other animals gradually based on needs and other related circumstances⁸.
- 4.2 With the exemption removed, any person who breeds and sells dogs, regardless of the number of animals involved, will have to apply for a licence or a permit. This will also include those who sell their own pets or the offspring thereof.
- 4.3 There will be four types of licence or permit, which will be issued to an individual and will have conditions attached (same as the practice under the current ATL), including a Code of Practice. The four types of licence or permit are –
- (a) Animal Trader Licence (ATL), which is the current licence granted to animal traders. It will be required for those who wish to sell dogs and/or other animals, but do not breed the dogs;
 - (b) Animal Breeder Licence Category A (ABLA) for breeders keeping not more than four entire female dogs for breeding purposes on one premise and selling his breeding dams or offspring of these dogs;

⁸ We propose to specify the types of animals to which the licensing regime would apply in a new schedule in Cap. 139B.

- (c) Animal Breeder Licence Category B (ABLB) for breeders keeping five or more entire female dogs for breeding purposes on one premise and selling his breeding dams, offspring of the dams or other dogs. ABLB holders, being commercial breeders with larger scale of dog breeding/keeping activities and facilities, would be subject to more stringent requirements as compared with ABLA holders, and they may therefore be allowed to sell other dogs obtained from approved sources in addition to his breeding dams or offspring; and
- (d) One-off Permit for those genuine pet owners who wish to sell an individual dog that they own. They must have had the dog licensed under their names for a minimum of four months. Each permit is valid for one transaction covering one dog only and a limit of two such permits may be issued within a 24 month period to a single applicant, thus preventing the use of the permit by commercial animal traders to bypass the requirement to apply for an ATL.

4.4 The withdrawal of the exemption only applies to dogs in the first stage. Owners of other animals will still be allowed to sell their own pets or their offspring without the need of a licence. Dogs are targeted at the first stage because they comprise by far the largest share of the pet market and, based on past investigation records and conviction cases, the welfare of dogs (kept for breeding purposes) was compromised more frequently and to a greater extent than other types of pet.

4.5 We also propose to make the following mandatory requirements –

- (a) all licence/permit holders (including ATL, ABLA, ABLB and One-off Permit) must use microchips to identify their dogs, including their breeding dogs and the dogs' offspring. They also need to provide their licence/permit number and the microchip number of the dogs to an animal trader or purchaser when they sell their dogs;

- (b) no one should, irrespective of the media or means used, advertise or promote the sale of, or offer to sell (or invite to treat) any dog unless he is a holder of a valid licence or permit and has displayed his licence or permit number clearly on the promotional materials;
- (c) all licence/permit holders (including ATL, ABLA, ABLB and One-off Permit) will be required to include their licence/permit numbers on any advertisements, promotion materials or websites for offering their dogs for sale. In other words, while a breeder or animal trader may sell his dogs online, in the print press, by word of mouth or directly to another licensed animal trader, all related publicity materials, offers for sale and sale documents must clearly show his licence/permit number. Failure to show the licence/permit number will constitute a breach of licence/permit conditions and could lead to revocation of the licence/permit.

4.6 Requiring a dog breeder or animal trader to declare his licence/permit number in every transaction and promotion of sale involving dogs will prevent those without a licence/permit from being able to trade, or advertise such activities. Therefore, AFCD will be able to verify details, such as breeds available and licence/permit numbers against a database to ensure they are correct. Those who sell (or advertise to sell) a dog without a licence/permit will be liable to prosecution.

4.7 Licensing the persons who breed and sell dogs will enable AFCD to develop an extensive database of animal breeders for conducting regular visits and inspections, which in turn help ensure that the puppies for sale are raised under appropriate conditions and welfare standards. The net result will be an improvement in safeguarding public health and safety, and animal health and welfare.

Licensing conditions and Code of Practice

4.8 Under regulation 5(3), DAFC may attach to a licence such conditions as he may think fit. At present, the licensing conditions set out the

requirements and standards on the operation of the animal traders, including housing facilities and enclosures, husbandry and sanitation requirements, staff training, veterinary service, record keeping, etc. The latest update in February 2010 focussed on the source of dogs which was discussed in Chapter 2.

4.9 With the introduction of two new categories of breeder licence, AFCD will introduce a Code of Practice on breeding animals for sale, which will form part of the licence conditions of the breeder licence. The Code of Practice will detail such things as requirements for space, ventilation, lighting and exercise etc. under the licensing system, thus ensuring that dogs under the care of the licence holder are kept under acceptable welfare standards. To address the different degree of risk of welfare problems associated with different types of licences, the Code of Practice will vary depending on the category of licence, for example an ABLB holder will be subject to more stringent conditions than an ABLA holder. A comparison showing the existing licensing regime and the proposed regime is at **Annex 1**. A summary of the proposed licensing conditions including the main elements of the proposed Code of Practice is provided in **Annex 2**.

4.10 We will also revise the permitted sources from which animal traders may acquire dogs. Following such revisions, animal traders may only obtain dogs for sale from the following sources, namely –

- (a) legally imported and covered by a valid import permit issued by AFCD, together with a valid health certificate issued by the veterinary authority of the exporting place;
or
- (b) acquired from ATL, ABLA, ABLB or One-off Permit holders.

Animal traders will no longer be allowed to source their dogs from PPOs who do not have a licence or permit.

Inspection of licensed premises

- 4.11 Under section 15 of the Public Health (Animals and Birds) Ordinance (Cap. 139), certain officers of AFCD may enter (including break into) licensed premises for inspection purpose. AFCD will adopt a risk-based approach in future inspections of premises under the licences where dogs are kept for breeding or sale purposes. As evident from previous experience, premises holding a large number of dogs for breeding or sale purposes generally have a higher incidence where animal welfare has been compromised. Thus, premises for which an ATL or ABLB applies will be accorded a higher risk profile and the frequency of inspection are likely to be higher than those under ABLA (a relatively lower risk).
- 4.12 To facilitate the inspection by AFCD, it is proposed that the licence issued by DAFC will cover the whole premises at the listed address, with a condition requiring unimpeded access to inspect the premises. This is different from the current practice which allows a partial coverage of the licence to a portion of the premises. In the past, some irresponsible animal traders have divided their premises into two portions, one licensed and the remaining part unlicensed and substandard. Animals were kept under substandard conditions within the confines of the licensed premises. AFCD's request for entry to unlicensed parts of the premises for inspection was often refused and thus the conditions at the unlicensed portion could not be ascertained. The current proposal would enable a thorough inspection of the licensed premises to ensure compliance with the licensing conditions and that appropriate animal welfare standards are maintained.

Single issuance of ABLA

- 4.13 Animal health and welfare related problems often escalate as the number of dogs kept in a breeding establishment increases. Thus, holders of ABLB will be subject to more stringent requirements as compared with holders of ABLA. If multiple ABLAs could be issued to the same person, misbehaving traders might make use of this arrangement to bypass the more stringent requirements of ABLB

by applying for more than one ABLA instead. We therefore propose that an individual will be limited to one ABLA. All the licensing conditions must be met before any licence or permit will be issued.

Licence fees

- 4.14 The fees for the different licences/permit will be charged on a cost-recovery basis, according to the costs involved in processing the application and ensuring compliance with the licence conditions.
- 4.15 We expect the fee for ATL will be very similar to the current fee level and the licensing conditions will largely remain the same. ABLA fee will be lower than that of ABLB due to the smaller number of dogs handled, and the fee for One-off Permit will be lowest.

CHAPTER 5 OTHER AREAS FOR IMPROVEMENT IN THE REGULATION OF PET TRADE

5.1 There are two other areas identified in Chapter 3 which we propose to tackle. They are:

- (i) Insufficient deterrence under Cap. 139B; and
- (ii) No power to revoke Animal Trader Licences for offences under Cap. 169.

Insufficient deterrence under Cap. 139B

5.2 We propose to amend Cap. 139B to increase the maximum penalty for illegal trading of animals from Level 1 (\$2,000) to Level 6 (\$100,000), and that for breaches of licensing conditions or other animal keeping requirements from \$1,000 to Level 5 (\$50,000). The amendment will serve to more effectively deter individuals from the illegal trading of animals and from the breaching of licensing conditions, and in particular discourage offenders from repeating the same offence.

No power to revoke Animal Trader Licences for offences under Cap. 169

5.3 In order to stop unsuitable persons from running animal trading businesses (or breeding and selling dogs), we propose to amend Cap. 139B to provide DAFC with the specific power to revoke or rescind the licences issued under Cap. 139B.

5.4 Circumstances warranting revocation of a licence include offences related to cruelty to and maltreatment of animals under the Prevention of Cruelty to Animals Ordinance (Cap. 169).

5.5 This proposal will help ensure that individuals who have had a history of offences relating to the welfare of animals will no longer be able to run a business overseeing the care of animals.

CHAPTER 6 INVITATION FOR COMMENT

6.1 Comments are invited on -

whether the proposed measures to enhance animal health and welfare by better regulating pet trading through -

- (a) licensing of persons who breed and sell dogs;
- (b) increased penalties under Cap. 139B; and
- (c) power to revoke Animal Trader Licences for offences under Cap. 169

are appropriate, sufficient and agreeable.

6.2 Please send us your comments by post, facsimile or email on or before 30 November 2012:

Address: Animal Management (Operations) 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)3110 1336

Email address: Cap139B_amendment@afcd.gov.hk

6.3 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.

6.4 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.

6.5 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 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.**

- 6.6 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 6.2 above.

**Comparison between Current
and Proposed Licensing Requirements**

Category	Current Requirement	Proposed Requirement
Private Pet Owner selling his own dog	Nil	One-off Permit
Private Pet Owner with 1-4 entire female dogs breeding for sale	Nil	Animal Breeder Licence Category A
Private Pet Owner with 5 or more entire female dogs breeding for sale	Nil	Animal Breeder Licence Category B
Commercial Pet Breeder	Animal Trader Licence (with special conditions regulating the breeding activities)	Animal Breeder Licence Category B
Pet Shop	Animal Trader Licence	Animal Trader Licence

Proposed Licensing Conditions for Licences and the Code of Practice for Animal Breeder Licence Category A and B

The Code of Practice for Animal Breeder Licence Category A and B will detail the responsibilities of a licence holder regarding the following:

- (a) suitable accommodation and equipment for meeting the physical and behavioural requirements of the dogs and new born puppies held;
- (b) appropriate heating, cooling and lighting;
- (c) sufficient space for sleeping and exercising;
- (d) necessary protection for the dogs from adverse natural or artificial conditions, other animals and unnecessary interference from humans;
- (e) enough space for the dogs to stand, move around freely, stretch fully and rest if primary enclosure is used;
- (f) enough appropriate feed and fresh water to maintain good health;
- (g) protection of the dogs from pest, disease, distress and injury;
- (h) prompt veterinary or other appropriate treatment in cases of disease or injury;
- (i) hygiene of the premises and health of the animals held;
- (j) cleansing and waste disposal;
- (k) regular and frequent feeding, watering and inspection of the animals to ensure their welfare;

- (l) proper conduct of breeding activities and whelping and care of new born puppies at all time;
- (m) duty of care for dogs at all time;
- (n) keeping record of each dog with details such as breed, date of birth, identification, microchip number, vaccination history, breeding history etc.;
- (o) ensuring that all staffs are competent in their areas of responsibilities by providing training wherever necessary; and
- (p) other responsibilities considered reasonable by DAFC.

Additional Conditions

Additional conditions would be on measures other than physical, environmental and those related to the care of the dogs prescribed in the Code of Practice which will also apply to holders of other licences. These additional conditions include the following:

- (a) regulatory requirements on the licensees;
- (b) regulatory requirements on the licensed premises;
- (c) regulatory requirements on dam inventory;
- (d) regulatory requirements on selling of dogs and their offspring;
- (e) regulatory requirements on the sources of the dogs;
- (f) regulatory requirements for the health of dogs;
- (g) regulatory requirements on licensing and microchipping of dogs;
and
- (h) other regulatory requirements considered reasonable by DAFC.