



## **II. REPORT**

The date of First Reading of the Bill was 9 July 2014. Members may refer to the LegCo Brief (File Ref.: FHB/F/6/12/12) issued jointly by the Food and Health Bureau and Agriculture, Fisheries and Conservation Department on 2 July 2014 for further details.

### **Object of the Bill**

2. The Bill amends the Veterinary Surgeons Registration Ordinance (Cap. 529) (the Ordinance) to broaden the membership of the Veterinary Surgeons Board (the Board), refine the complaint-handling framework against registered veterinary surgeons, and provide for other amendments and transitional arrangements.

### **Background**

3. The Ordinance was enacted in 1997 to govern the registration and practice of veterinary surgeons in Hong Kong. It provides for the establishment of the Board which deals with various matters including disciplinary offences committed by registered veterinary surgeons.

4. According to paragraph 3 of the LegCo Brief, the number of complaints against veterinary surgeons received by the Board has risen markedly in recent years. The complaints have also become more complex. In order to better equip the Board to cope with the increasing caseload, the Administration considers that the current structure and modus operandi of the Board should be amended.

### **Provisions of the Bill**

#### Broadening the membership of the Board

5. The Board currently consists of the following 10 members to be appointed by the Secretary for Food and Health (SFH) -

- (a) one chairperson;
- (b) one medical practitioner or pharmacist who is entitled to practise his or her profession in Hong Kong;

- (c) two persons who, in SFH's opinion, represent the interests of persons who utilize veterinary services (each is referred to as "a relevant lay person"); and
- (d) six registered veterinary surgeons.

6. The Administration wishes to broaden the representativeness of the Board and better equip the Board to cope with the increasing workload. It also wants to encourage greater involvement of the veterinary profession in managing its own affairs. Further, the Board should tap wider expertise in related disciplines.

7. Accordingly, the Bill amends the Ordinance to broaden the membership of the Board by -

- (a) increasing the number of members from 10 persons to 19 persons; out of these nine new members, six of whom are registered veterinary surgeons to be elected by persons from their profession (elected members) with the rest being additional relevant lay persons to be appointed by SFH (clause 5 of the Bill – proposed new section 3A); and
- (b) adding a new definition of "medical and health professional" to expand the current category of member as mentioned in paragraph 5(b) above to include a dentist who is entitled to practise his or her profession in Hong Kong (clause 3(3) of the Bill).

#### Refining the complaint-handling framework against registered veterinary surgeons

8. Currently under the Ordinance, where the secretary to the Board (the Secretary) receives a complaint against a registered veterinary surgeon alleging to have committed a disciplinary offence, the Secretary is required to submit the complaint to two members of the Board (who constitute a preliminary investigation committee (PIC) although the name is not mentioned in the Ordinance) of whom one must be a non-veterinary member, to determine whether or not the complaint should be referred to the Board. If the complaint is referred by PIC to the Board, the Board may, if it considers appropriate, refer the complaint to an inquiry committee (IC) consisting of not less than three of its members to determine whether or not the registered veterinary surgeon has committed a disciplinary offence. The Ordinance requires that an IC must have one non-veterinary member.

9. Given that the Board presently has only three non-veterinary members (i.e. those specified in paragraph 5(b) and (c) above), according to paragraph 5 of the LegCo Brief, the maximum number of PICs which may be formed concurrently by the Board is restricted to three in practice. Besides, only two non-veterinary members of the Board are available for appointment to an IC as the one who has been involved in a PIC cannot sit on an IC for the same case.

*Establishment of panel of assessors*

10. To facilitate the appointment of more PICs and ICs by the Board if necessary to cope with the caseload, clause 11 of the Bill adds a new section 17A to the Ordinance to empower the Board to establish a panel of assessors from whom members of a PIC or IC may be appointed. Such panel is to consist of not more than 12 registered veterinary surgeons and not more than six other persons to be appointed by the Board upon the nomination of the Director of Agriculture, Fisheries and Conservation. A Board member is not eligible to be appointed to the panel.

*Establishment of PIC and streamlining the complaint-handling process*

11. Clause 11 of the Bill also adds a new section 17C to the Ordinance to provide for the establishment of a PIC by the Board to be consisted of three persons. A PIC may be formed either by three Board members or by two Board members plus one assessor. In either case, one member of a PIC must be a person who is not a registered veterinary surgeon. It further adds a new section 17D to the Ordinance to empower a PIC to request the complainant, the registered veterinary surgeon being complained of, and any other person whom it considers appropriate, to provide information to facilitate its consideration of the complaint.

12. Proposed new section 17C of the Ordinance also provides that a PIC, instead of the Board as currently stipulated in the Ordinance, is to consider whether a complaint against a registered veterinary surgeon should be referred to an IC for determining whether such surgeon has committed a disciplinary offence. According to paragraph 16 of the LegCo Brief, such arrangement will facilitate better use of the resources of the Board and reduce the time required for processing complaints.

*Broadening the membership of IC*

13. Similar to the proposed composition of a PIC, clause 12(2) of the Bill adds a new section 18(1C) to the Ordinance to provide that an IC is to consist of either three Board members or two Board members plus one assessor. In either case, one of the members of an IC must be a person who is not a registered veterinary surgeon.

## Other amendments and transitional arrangements

### *Other amendments*

14. Section 2 of Schedule 1 to the Ordinance currently sets out the circumstances under which SFH may declare the office of a Board member to be vacant. Clause 16(2) and (3) of the Bill repeals that section and adds new sections 2B to 2D to that Schedule so that SFH (in the case of the chairperson of the Board or any other member appointed by SFH to the Board (appointed member)) or the Board (in the case of an elected member of the Board) has to declare that the office of a Board member becomes vacant if -

- (a) the member dies, resigns or is currently subject to a disciplinary order made under the Ordinance;
- (b) the member is an undischarged bankrupt or has entered into a voluntary arrangement within the meaning of the Bankruptcy Ordinance (Cap. 6) with his or her creditors which is still in force;
- (c) the member is sentenced to imprisonment in Hong Kong or elsewhere for a term exceeding three months, regardless of whether or not the sentence is suspended;
- (d) (in the case of an appointed or elected member) the member ceases to be a registered veterinary surgeon, medical and health professional or relevant lay person as the case requires; and
- (e) SFH (in the case of the chairperson or an appointed member) or the Board (in the case of an elected member) is satisfied that -
  - (i) the chairperson or appointed member is unable or unfit to perform the duties and exercise the powers of a chairperson or member because of physical or mental illness or any other reason; or
  - (ii) the elected member is unable or unfit to perform the duties and exercise the powers of a member because of physical or mental illness.

15. Clause 16(3) of the Bill also adds a new section 2E to Schedule 1 to the Ordinance to provide for the circumstances, as similar to those specified in paragraph 14(a) to (e)(i) above, under which the Board must declare that the office of an assessor becomes vacant.

16. Other amendments to the Ordinance include adding new definitions to section 2 of the Ordinance (clause 3(3) of the Bill), providing the terms of offices of different members of the Board (clause 5 of the Bill) and the term of office of an assessor (clause 11 of the Bill), empowering SFH to make an election regulation for the election of elected members to the Board, subject to negative vetting by the LegCo (clause 13(2) of the Bill), and providing for the manner of resigning from offices of different members of the Board and an assessor (clause 16(3) of the Bill).

17. The Bill also makes consequential amendments (e.g. clause 9(2) of the Bill) and drafting amendments (e.g. clauses 7, 8 and 9(1) of the Bill) to the Ordinance.

#### *Transitional arrangements*

18. Clauses 17 to 21 of the Bill provide for the transitional arrangements in consequence of the enactment of the Bill.

#### Commencement

19. The Bill, if passed, would come into operation on a day to be appointed by SFH by notice published in the Gazette.

#### **Public Consultation**

20. The Administration launched a two-month public consultation on proposals to amend the Ordinance in October 2012. Three public consultation forums were also held. According to paragraph 24 of the LegCo Brief, the vast majority of the respondents were in support of the proposals. Some members of the veterinary community suggested bringing in more veterinary members to serve on the Board, increasing the proportion of elected to non-elected members, and empowering the Board members to select the chairperson from among themselves.

#### **Consultation with LegCo Panel**

21. As advised by the Clerk to the Panel on Food Safety and Environmental Hygiene, the Panel was briefed on the public consultation document on the proposals to amend the Ordinance on 13 November 2012. The Panel received a briefing on the outcome of the consultation exercise and was consulted on the proposed amendments to the Ordinance on 8 April 2014. Members generally supported the legislative proposals, including expanding the membership of the Board, establishing a panel of assessors and direct referral of complaints from a PIC to an IC. However, members considered that more lay

persons should be appointed to the Board to represent the interests of users of veterinary services. Concern was also raised about the election procedures of the six newly added registered veterinary surgeons to the Board.

## **Conclusion**

22. The Bill effects changes to the composition of the Board and the complaint-handling framework against registered veterinary surgeons. Members may wish to form a Bills Committee to study the changes in detail. The Legal Service Division is still scrutinizing the legal and drafting aspects of the Bill.

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17 September 2014