

**For discussion
on 14 June 2016**

LegCo Panel on Food Safety and Environmental Hygiene

**Codes of Practice on Animal Trading
– for licensed animal traders and dog breeders**

INTRODUCTION

This paper briefs Members on the proposed Codes of Practice (“CoPs”) for licensed animal traders trading in dogs and licensed dog breeders. These CoPs are to be attached as part of the licence conditions under the new licensing regime when the Public Health (Animals and Birds) (Animal Traders) (Amendment) Regulation 2016 (“the Amendment Regulation”) commences.

BACKGROUND

2. At the meeting of the Executive Council on 10 May 2016, the Council advised and the Chief Executive ordered that the Amendment Regulation should be made under section 3 of the Public Health (Animals and Birds) Ordinance (Cap. 139). The Amendment Regulation was published in the Gazette on 20 May 2016 and tabled before LegCo on 25 May 2016. Members may refer to the LegCo Brief issued in May 2016 (File Ref.: FH CR 3/3231/07) for further information.

3. Subject to negative vetting by the Legislative Council, the Amendment Regulation will come into operation on a day to be appointed by the Secretary for Food and Health by notice published in the Gazette.

4. One of the major amendments in the Amendment Regulation is to revise the licensing scheme, such that any person who sells or offers to sell dogs must obtain a licence or a permit. Under the new regulatory regime, there will be three types of licence and one type of one-off permit, namely:

- (a) Animal Trader Licence (“ATL”), the type of licence which is currently in place, for any person who sells, or offers to sell, dogs and/or other animals or birds at one premises, but does not keep dogs for breeding, as an animal trader;

- (b) **Dog Breeder Licence Category A (“DBLA”)**¹ for any individual who keeps four or fewer female dogs for breeding purposes at one premises, and sells, or offers to sell, those breeding dams or their offspring. Any individual may hold only one DBLA at any one time;
- (c) **Dog Breeder Licence Category B (“DBLB”)**² for any person who keeps a number of female dogs for breeding purposes up to the limit provided for in the licence at one premises, and sells, or offers to sell, those breeding dams, their offspring or dogs from other sources; and
- (d) **One-off Permit** for any dog owner who sells, or offers to sell, a dog that the dog owner keeps as the licensed keeper of that dog. A maximum of two one-off permits only can be granted to any single individual within any four-year period.

5. Each DBLA or DBLB is tied to one specific premises, as in the case for the existing ATL. The licensed premises will be subject to regular inspections by authorised officers of the Agriculture, Fisheries and Conservation Department (“AFCD”). This is to ensure compliance with the relevant licensing requirements and any conditions attached to the licence.

6. Each of the three licence types mentioned in paragraph 4 will be granted with a set of licence conditions attached by the Director of Agriculture, Fisheries and Conservation (“DAFC”), including regulatory requirements for the licensed premise, the dogs for sale, and procedures of the sale of dogs. All licensees will be subject to one common condition, that is, they must comply with the CoP of their respective licences. Hence, any breach of the CoPs may be considered as a breach of licence condition, subjecting the licensee to prosecution. Under the Amendment Regulation, the maximum penalty for breach of a licence condition will be increased from a fine of \$1,000 to \$50,000. Furthermore, during the validity period of a licence, should there be a breach of the licence condition; DAFC may cancel the licence. When considering an application for licence renewal, DAFC may take into account all relevant considerations including a licensee’s compliance with the law and the applicable licensing conditions.

¹ The DBLA is designed for individuals who breed a relatively smaller number of dogs. They are sometimes referred to as “hobby-breeders” or “home-breeders” who keep their dogs as pets and live with them in a household. The DBLA holders are individuals who will be subject to different accommodation requirements than those who breed a relatively larger number of dogs (i.e. the “commercial breeders”), although they are expected to observe the majority of the licence conditions applicable to DBLB holders.

² Commercial operators who keep more than four female dogs for breeding and sell those dogs or their offspring are required to obtain a DBLB. They will be subject to stringent control via the licence conditions, such as the provision of primary enclosures and exercise area for the dogs, and subject to more frequent inspections by authorised officers of the Agriculture, Fisheries and Conservation Department (“AFCD”).

7. A CoP will not be attached to the one-off permit as the permit relates strictly to an individual dog and is not tied to a specific premises. That said, DAFC may attach permit conditions to the one-off permit as necessary.

8. In formulating the proposals for the Amendment Regulation, the Government conducted a public consultation in the last quarter of 2012, and invited views from this Panel as well as relevant stakeholders. Views on the main elements of the proposed CoPs were also collected. Subsequent to the public consultation, AFCD held six rounds of discussion and consultation with members of the trade, animal concern groups, the Animal Welfare Advisory Group (“AWAG”)³ and members of the public on the draft CoPs. Useful views were received. While some urged for imposing the more stringent licensing requirements applicable to DBLB licensees on DBLA licensees as well, others opined that the licensing requirements should be commensurate with the unique modus operandi and set-ups of different kinds of dog breeders.

9. Taking into account the views collected during the consultation, and making reference to overseas practices, AFCD refined and further tightened up some of the requirements as set out in the CoPs⁴ in consultation with the relevant working group under AWAG. Animal welfare organisations and trade representatives were also briefed on the latest draft CoPs in May 2016. Having carefully considered all the views received, AFCD has come up with the final version of the proposed CoPs. Full sets of the proposed CoPs and the licence conditions could be found at AFCD’s website (http://www.pets.gov.hk/en_business_3_1_5.php#btop).

CODES OF PRACTICE

10. The primary objective of the CoPs is to assure the welfare of dogs under the care and management of the licence holders at the licensed premises by placing a ‘duty of care’ on the licensee. Detailed requirements are set out in the CoPs based on the above principle, and should be followed under the licensing regime. The CoPs apply to the licensed premises, licensee and any staff working at the licensed premises and all dogs within such premises at all time. The licensee is responsible for ensuring compliance with the CoPs at all time.

³ AWAG has been established since 1996. It tenders advice to DAFC on animal welfare and related matters, including keeping under review animal-related legislation, regulation and control of the pet trade, public education and publicity programmes, etc. Appointments to AWAG are made by the Secretary for Food and Health. AWAG comprises representatives from a wide spectrum of fields including veterinary science, animal welfare and management, the pet trade as well as other professional disciplines.

⁴ The revised requirements cover subject matters including the individual sleeping area for small dogs; exercise frequency for dogs; flooring material of primary enclosures; minimum age of puppies for sale; and pre-sale vaccination requirement etc.

11. The licensee, in general, has a ‘duty of care’ to dogs at all time and must:

- (a) provide accommodation and equipment which are suitable for the dogs and puppies in terms of size and needs for physical movements;
- (b) provide necessary protection for the dogs against adverse natural or artificial conditions and unnecessary interference from humans or other animals;
- (c) provide adequate space for the dogs to stand, move around freely, stretch fully and rest;
- (d) provide enough and appropriate food and fresh water to maintain the dogs in good health;
- (e) protect the dogs from disease, distress and injury;
- (f) provide prompt veterinary treatment to the dogs in cases of disease or injury;
- (g) maintain the licensed premises in hygienic conditions;
- (h) conduct regular inspections on the dogs to ensure their welfare;
- (i) supervise breeding activities, whelping and caretaking of new born puppies; and
- (j) advise buyers, especially those who have not kept a dog before, to act responsibly and exercise a duty of care for the well-being of the dogs.

12. Based on the above principles, the CoPs are divided into different sections which give detailed treatment to subjects ranging from requirements for environment and facilities, to temperature, ventilation, lighting, training for the licensees and their staff, if any, and record keeping etc. Key requirements set out in the CoPs are summarised below.

Facility and Space Requirement

13. General standards for the licensed premises and enclosures for individual dogs, if required, are laid out in the CoPs. Regarding the space requirement, for ATL licensed premises, primary enclosures shall provide enough space for the dogs to stand, turn around freely, stretch fully and rest.

The length of the enclosures must be at least three times the length of the dog (measured from the tip of the nose to the base of the tail) and the width must be at least two times the length of the dog. The height of the enclosure must allow each dog to comfortably stand upright on its hind legs without the dog's head in friction with the ceiling of the enclosure. This area shall be increased for each additional dog placed in the same enclosure. Each enclosure can only accommodate a maximum of four heads of dog and all dogs must be compatible. Enclosures used by DBLB holders for keeping weaned puppies must also abide by these requirements.

14. Since DBLA holders will keep a smaller number of dogs for breeding and sale than that of DBLB holders, the primary difference between the requirements for DBLA and DBLB is such that dogs kept by DBLA holders are expected to be able to move freely within the licensed premises under a household-setting while dogs kept by DBLB holders are expected to be kept in primary enclosures (with exercise areas to provided) at the licensed premises under a more structured setting. Unlike DBLB holders, DBLA holders are not required to keep dogs in primary enclosures. For DBLA licensed premises, a saleable floor area⁵ of no less than 9.3 m², 16.72m² and 23.23 m² is required for each small, medium and large dog respectively. For DBLB licensed premises, an individual sleeping area of no less than 1.5 m², 2.5 m², and 3.4 m² is required for each small, medium and large dog respectively. In addition, an exercise area of no less than 7.4m², 11m² and 14.8m² is required for each small, medium and large dog respectively. An exercise area may be an individual area for each dog directly adjoining the sleeping area or it may be a common area shared by exercising more than one dog at a time, or by using different time slots, or both. When more than one dog is exercised at a time, the exercise area must be increased on a pro-rata basis. Dogs must be provided at least half an hour of exercise time twice a day.

15. Separate whelping areas must be provided for DBLA and DBLB licensed premises. DBLB licensed premises must have a dedicated whelping area, which must provide whelping dogs with an appropriate quiet and private environment for giving birth to and nursing their puppies. The whelping area must also conform to the above space requirements as provided for in the CoPs.

Requirements for all the dogs (including breeding dogs) kept at the licensed premises

16. Different requirements for dogs (including breeding dogs) kept at the licensed premises are set out in the CoPs to enhance the protection of their welfare and health. For both DBLA and DBLB holders, it has been set out in

⁵ "Saleable floor area" in relation a residential property is used and has the same meaning as defined in Section 8 of the Residential Properties (First-hand Sales) Ordinance (Cap. 621). Premises under application for which the defined saleable area is not readily available will be assessed on the basis of internal floor area.

the CoPs that the female breeding dogs shall only give birth between 18 and 74 months of age and shall only have a maximum of six litters in their lifetime, with a maximum frequency of three litters in any two years. Male dogs used for breeding purpose shall only be mated between 9 and 72 months of age. Only dogs in good health and physical condition shall be used for mating. During whelping, female dogs must be isolated from other dogs and monitored on a regular basis to ensure that the birth proceeds in a normal manner. Veterinary care shall be sought during whelping when required.

17. Furthermore, all the dogs kept on the licensed premises for sale must be vaccinated by a registered veterinary surgeon. Dogs for sale shall be no less than 10 weeks old (as stipulated under the licence condition) and must have received at least two vaccinations. The vaccinations should normally be given at least two weeks apart and the dogs shall not be sold or offered for sale until a minimum of two weeks after the second vaccination. This is to reduce the susceptibility of the dogs to common infectious diseases and help ensure that they are in good health. In addition, all dogs must have a health check by a registered veterinary surgeon within 30 days prior to sale.

18. There must be a preventive health plan in place for all dogs, including routine prophylactic treatments for ecto- and endo-parasites. Appropriate treatment shall be sought for any dogs having injury or illness. For DBLA and DBLB holders, all enrolled female dogs⁶ shall undergo an annual health check by a registered veterinary surgeon.

19. All licensees must keep appropriate records relating to the dogs. For example, DBLA and DBLB holders are required to keep records for all breeding dogs and litters bred at the licensed premises. The original vaccination certificates shall be available for inspection by authorised officers of AFCD. Additional record-keeping requirements are also set out in the respective licence conditions.

Training of the licensees and staff

20. The CoPs require all licensees (i.e. DBLA, DBLB and ATL trading in dogs) to receive structured training at a training institution recognised by AFCD. The requirement also applies to staff working at the licensed premises of ATL and DBLB. For DBLA holders, the requirement also applies to any person responsible for monitoring the whelping of dogs.

⁶ As stipulated under the licence conditions for DBLA and DBLB, any female dogs not enrolled on the Inventory of the licensee must not be involved in any breeding activity. Approval must be sought from AFCD for any change of the Inventory of enrolled female dogs (including any addition to or removal from the Inventory).

21. The content and duration of the training programmes will vary depending on the type of the licence applicable and the occupational position of individuals. As far as dog breeding activity is concerned, DBLA and DBLB holders must have a good understanding of the local legislation related to dogs, knowledge pertaining to animal welfare, basic requirements of dogs, hygiene condition of the environment, health care, first aid, grooming, as well as how to handle the dogs properly. Apart from the above subjects, licensees and their staff must also be familiar with genetics and hereditary diseases, dog breeding, dog mating, and dog whelping, etc. AFCD has drawn up a basic training syllabus in consultation with AWAG, which is available at AFCD's website mentioned above.

22. Licensees, their operational management personnel and staff are required to enrol themselves at institutions in the open market which offer training programmes recognised by AFCD. Licensees must also keep record of the training attended for inspection by AFCD. The recognised programmes will be published on AFCD's website. AFCD will ensure that the training syllabus are covered in the programmes provided by such institutions, while licensees, and their staff must attend the training programmes in person and pass the examination set by the institutions upon completion of training. The assessment results must be recognised by AFCD so as to comply with the requirements under the CoPs.

ADVICE SOUGHT

23. Members are invited to note the content of this paper and offer comments on the proposed CoPs for licensed animal traders trading in dogs and licensed dog breeders.

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