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Panel on Food Safety and Environmental Hygiene

**Background brief prepared by the Legislative Council Secretariat
for the meeting on 8 May 2018**

Driver's duty in traffic accidents causing injury to animals

Purpose

This paper provides background information on the existing requirement on a driver in case of accidents causing injury to animals under the Road Traffic Ordinance (Cap. 374) ("RTO"), and summarizes major views and concerns expressed by members of the two subcommittees on policy issues formed under the Panel on Food Safety and Environmental Hygiene ("the Panel") in the Fifth and Sixth Legislative Council ("LegCo") on the subject.

Background

2. At present, section 56 of RTO provides that a driver of a vehicle shall stop the vehicle where an accident involving that vehicle occurs whereby damage is caused to, amongst others, an animal. The driver is also required to provide particulars, including (a) his/her name and address; (b) the name and address of the owner of the vehicle; and (c) the registration or identification mark or number of the vehicle, if required by a police officer or any person having reasonable grounds for so requiring. Otherwise, the driver has to report the accident to the nearest police station as soon as practicable, and in any case no later than 24 hours after the accident. For the purpose of this provision, "animal" is defined to mean any horse, cattle, ass, mule, sheep, pig or goat.

3. Section 56 of RTO also stipulates that it is an offence for any driver not to stop in case of accidents. The maximum penalty is a fine of \$10,000 and

imprisonment for 12 months upon conviction. If any driver who knowingly makes a false statement in supplying particulars, as mentioned above in paragraph 2, he/she will be liable on conviction to a fine of \$15,000 and imprisonment for six months.

Members' concerns

4. The major views and concerns expressed by members of the two subcommittees are summarized below.

Definition of "animal"

5. Noting that cats and dogs were not included in the definition of "animal" under section 56 of RTO, requests were raised that the Administration should (a) conduct research into overseas practices in the handling of road accidents involving knocking down or killing of cats and/or dogs and (b) consider the need of reviewing and amending the relevant provisions in RTO and/or other animal-related legislation, e.g. the Prevention of Cruelty to Animals Ordinance (Cap. 169) ("PCAO"), to the effect that (i) a driver would have a duty to stop in case of accidents involving knocking down or killing of cats and/or dogs and to report the accident to the Police; and (ii) the driver concerned should hold responsibility for the accident if he/she deliberately caused damage to the cats and/or dogs.

6. According to the Administration, it had, in response to members' requests, studied the relevant practices and related legislation in Singapore, the United Kingdom ("UK") and New York State of the United States of America. The Administration found that the relevant legislative provisions in Singapore and UK were similar to the present section 56 of RTO, except that their scope covered dogs as well. The relevant legislation in New York, on the other hand, covered both dogs and cats, among others. Taking into account the following factors, the Administration undertook to review the legislation with a view to bringing dogs and cats within the scope of section 56 of RTO:

- (a) in recent years, from time to time, there were media reports on incidents where dogs and cats were knocked down by vehicles, causing injuries to or even deaths of these animals;
- (b) the fact that in some accidents, the vehicle driver left without causing the animals to receive attention;

- (c) the public concerns and sentiment that had been expressed from the animal welfare angle; and
- (d) the practices adopted in other places.

Enforcement

7. In response to members' concern about the Police's handling of and investigation into road accidents involving injury to or killing of cats and/or dogs, the Administration stressed that acts of cruelty to animals and negligence in taking care of the animals would amount to an offence under PCAO. It was worth noting that any person who cruelly beat, kicked, ill-treated, over-rode, over-drove, overloaded, tortured, infuriated or terrified any animal, or by wantonly or unreasonably doing or omitting to do any act, caused any unnecessary suffering to any animal committed an offence and should be liable on conviction to a fine of \$200,000 and imprisonment for three years. In other words, if a person intentionally caused suffering to cats and/or dogs by knocking it down by a vehicle, subject to the evidence available, he/she might be liable to prosecution under PCAO. Relevant government departments would take enforcement actions under and in accordance with PCAO where circumstances so warranted. The Administration encouraged members of the public to report to the Police if and when they witnessed any such incidents.

Latest development

8. According to the Administration, it has completed the review of the definition of "animal" under RTO. The Administration will brief the Panel at the meeting on 8 May 2018 on its proposals to amend RTO, requiring the driver of a vehicle in a traffic accident to report the accident to the Police when injury to animals (including cats and dogs) is involved.

Relevant papers

9. A list of the relevant papers on the LegCo website is in the **Appendix**.

**Relevant papers on
driver's duty in traffic accidents causing injury to animals**

Committee	Date of meeting	Paper
Subcommittee on Issues Relating to Animal Welfare and Cruelty to Animals	---	<u>Report of the Subcommittee on Issues Relating to Animal Welfare and Cruelty to Animals (LC Paper No. CB(2)1704/15-16)</u>
Legislative Council	18.10.2017	<u>Official Record of Proceedings Pages 255 to 257 (written question raised by Hon Alice MAK on "Incorporating cats and dogs into the scope of section 56 of the Road Traffic Ordinance")</u>
Subcommittee to Study Issues Relating to Animal Rights	---	<u>Report of the Subcommittee to Study Issues Relating to Animal Rights (LC Paper No. CB(2)689/17-18)</u>