

## **LEGISLATIVE COUNCIL BRIEF**

Public Health (Animals and Birds) Ordinance  
(Chapter 139)

### **Public Health (Animals and Birds) (Licensing of Livestock Keeping) (Amendment) Regulation 2020**

#### **INTRODUCTION**

At the meeting of the Executive Council on 3 March 2020, the Council ADVISED and the Chief Executive ORDERED that the Public Health (Animals and Birds) (Licensing of Livestock Keeping) (Amendment) Regulation 2020 (“the Amendment Regulation”), at Annex A, should be made under section 3 of the Public Health (Animals and Birds) Ordinance.

#### **JUSTIFICATIONS**

##### **Existing Policy on Keeping of Live Poultry**

2. Successive Voluntary Surrender Scheme and the Buyout Scheme were launched in 2004 to 2005 and 2008 respectively for the live poultry trade to reduce the number of poultry farms in Hong Kong and minimise human infection of Avian Influenza (“AI”) through live poultry. Poultry farmers who opted for giving up their Livestock Keeping Licence (“LKL”) and ceasing their operation permanently were granted ex-gratia payment (“EGP”) in return. As a result, the number of local poultry farms<sup>1</sup> dropped from 192 in 2004 to 29 at present, with the total licensed rearing capacity reduced from 3.9 million in 2004 to about 1.3 million at present. Since then, as a matter of policy, no LKL has been, or will be, issued after expiry of existing one(s) or cessation of operation of existing farms. The total rearing capacity of chicken farms is capped, thereby containing the local chicken population while providing a steady supply to meet the market demand for live chickens.

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<sup>1</sup> There were different types of poultry farms in the past, including those for chickens, waterfowls, pigeons and quails. As a result of the two schemes implemented in 2004 to 2005 and 2008, only chicken farms remain in Hong Kong.

3. In mid-2017, the consultancy study commissioned by the Government on the way forward of the live poultry trade in Hong Kong was completed, which suggested that the current system adopted by Hong Kong in safeguarding against AI was generally amongst the most comprehensive and stringent in the world, and that the measures were effective in preventing human infection of AI. Taking into account the study recommendation and views collected during the public consultation conducted afterwards, the Government agreed to the study's recommendation that the sale of live poultry at retail level should be continued and import of live poultry from the Mainland should not be banned.

4. While we consider that the overarching policy to maintain the current cap on the total chicken rearing capacity and not to issue any new LKL after expiry of existing one(s) should remain unchanged, we see the merits of fine-tuning our policy by allowing flexibility for relocation of chicken farms that could facilitate further enhancement of bio-security.

### **The Current Regulatory Regime**

5. By virtue of regulation 3 of the Public Health (Animals and Birds) (Licensing of Livestock Keeping) Regulation (“the principal Regulation”), a LKL issued by the Director of Agriculture, Fisheries and Conservation (“DAFC”) is required for keeping livestock in or on any premises within “Livestock Waste Control Areas”<sup>2</sup> (**Annex B**) unless there has been an exemption under regulation 9. Regulation 4(2A) of the principal Regulation, enacted at the time when the Government banned the keeping of poultry at backyards of domestic households in 2006, provides that DAFC shall not grant LKL in Livestock Waste Control Areas unless the following requirements are met –

- (a) the premises had been continuously used for the keeping of specified birds<sup>3</sup> for at least 12 months immediately before the commencement of the Public Health (Animals and Birds) (Licensing of Livestock Keeping) (Amendment) Regulation 2006;

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<sup>2</sup> Under the principal Regulation, “Livestock Waste Control Areas” refer to the areas specified in Schedule 1 by reference to maps identified therein.

<sup>3</sup> Under the principal Regulation, “specified bird” means a chicken, duck, goose, pigeon or quail. As only chicken farms remain in Hong Kong (see footnote 1) and that no new LKL will be issued after expiry of existing one(s) (see paragraph 2 above), the principle Regulation de facto applies only to chicken farms.

- (b) no EGP for cessation of the keeping of specified birds in or on the premises has been made by the Government after that commencement; and
- (c) the number of specified birds to be kept in or on the premises under the licence will be more than 20.

6. These provisions make it practically impossible for existing chicken farms to find any other premises in the Livestock Waste Control Areas which can satisfy the conditions for relocation. Premises, which had been used for chicken keeping before 2006 but are not existing chicken farms, would have failed to meet the other condition by virtue of EGP having been paid for cessation of keeping of chickens in or on the premises.

7. Apart from the legal requirements, no livestock farm is allowed within 500 metres buffer radius of another livestock farm of the same kind for animal health and bio-security reasons. Moreover, the premises for keeping chickens should fall under zonings where “Agricultural Use” is always permitted as defined under the Town Planning Ordinance. These include mainly “Agriculture” (“AGR”), “Green Belt” (“GB”), “Recreation” (“REC”), “Conservation Area” (“CA”) and “Village Type Development” (“V”). It should also fulfil the buffer distance of at least 200 metres from nearby sensitive uses (e.g. residential area) according to the Hong Kong Planning Standards and Guidelines (“HKPSG”).

### **Facilitating the Enhancement of Bio-security at Local Chicken Farms**

8. Most of the existing chicken farms are mingled with domestic structures in rural villages and hindered by their physical constraints (e.g. those on sloped locations, or whose sheds are scattered, or those with insufficient space) in implementing more comprehensive bio-security measures. By removing the restriction under the Regulation, chicken farms will be allowed to move to suitable locations within the Livestock Waste Control Areas, which are estimated around 500 km<sup>2</sup>, and implement more comprehensive bio-security measures. This could also help reduce the risk of disease outbreaks and environmental contamination, thereby further minimising antimicrobial usage for disease prevention and treatment, in line with the Government’s five-year strategy plan to combat the growing threat of antimicrobial resistance announced in 2017.

9. Enhanced measures that the relaxation could provide the farms with greater flexibility to implement may include –

- (a) installation of purpose-built bio-security measures (e.g. bird entrance barriers, and modernisation of manure discharge system, etc.);
- (b) reconstruction of chicken sheds that could allow better delineation of the production area from non-production area, use of “all in, all out” (“AIAO”) systems<sup>4</sup>, and more extensive disinfection and cleansing facilities; and
- (c) possible consolidation of smaller farms into a bigger one to reap the benefit of economy of scale.

10. In addition to the above enhancements, removing the restriction under regulation 4(2A)(a) of the principal Regulation would facilitate chicken farms to move away from residential structures<sup>5</sup>, further reducing the risk of human infection of AI and minimising nuisances. Also, chicken farms which will be affected by Government development projects (e.g. Yuen Long South New Development Area) could be relocated to other suitable sites to continue operation.

## **THE PROPOSAL**

11. Under the existing provisions of the principal Regulation, premises that are currently used for chicken keeping have not collected any EGP before and any other premises that had been used for the same purpose for at least 12 months immediately before the commencement of the Public Health (Animals and Birds) (Licensing of Livestock Keeping) (Amendment) Regulation 2006 would have all collected EGP. We consider that, consistent with the policy of reducing the number of poultry farms through the Voluntary Surrender Scheme / Buyout Scheme as outlined in paragraph 2 above, premises that have been granted EGP for cessation of poultry keeping continue to be ineligible to obtain an LKL.

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<sup>4</sup> Use of “all in, all out” (“AIAO”) systems in poultry farm has been advocated by a variety of international organisations, including the World Organisation for Animal Health (“OIE”) and Food and Agriculture Organisation of the United Nations (“FAO”), as a major component of an effective bio-security plan. One of the major advantages of AIAO is that emptying chickens from a shed (all out) at regular intervals could allow facilities to be cleaned thoroughly before the next batch of chickens is admitted (all in), thereby reducing the level of pathogen contamination. However, due to the size restriction of existing sheds in some chicken farms, this system cannot be practised effectively.

<sup>5</sup> Currently, some farms may not meet the buffer distance of 200 metres from residential area in accordance with HKPSG, as part of these farms have been in existence before implementation of the relevant HKPSG.

12. We propose amending the principal Regulation by removing the restriction under regulation 4(2A)(a), so that existing chicken farms could be relocated to other premises within the Livestock Waste Control Areas, irrespective of whether the premises have been previously used for chicken keeping, so long as they have not received EGP before.

13. According to the record of the Agriculture, Fisheries and Conservation Department (“AFCD”), the earliest cases of granting EGP for cessation of poultry keeping business took place after the commencement of the Public Health (Animals and Birds)(Amendment) Regulation 2001<sup>6</sup> on 14 December 2001. To provide clarity on the scope of this amendment exercise, we propose setting out the period for which premises are prohibited from being eligible to obtain an LKL as mentioned in paragraph 11 above by amending regulation 4(2A)(b) with reference to the said commencement date.

14. Upon relaxation, chicken farmers who apply for relocation will be required to submit a proposal to AFCD, setting out the proposed construction of new chicken sheds, implementation of improved bio-security measures as well as plans for improving animal health. AFCD will evaluate on a case-by-case basis if the relocation will result in improvement in bio-security and if the relocated farm could fulfil all the animal health requirements, before granting the approval. For those relocation involving increase in farm size, similar to the prevailing practice, only those with very strong bio-security justifications would be considered by AFCD. Hence, the total footprint of chicken farms is not expected to increase substantially after the relaxation. In addition, chicken farms which are currently close to residential structures must meet the requirement for buffer distance from residential area under HKPSG after relocation, hence further separating live poultry from humans, and minimising AI risks and nuisances.

## **THE AMENDMENT REGULATION**

15. The Amendment Regulation at **Annex A** seeks to implement the proposal in paragraph 12 to 14 above. Section 3 of the Amendment Regulation amends regulation 4(2A) of the principal Regulation to –

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<sup>6</sup> With a view to reducing the risk of AI virus from different kinds of birds mixing and resorting to develop new strains which would have adverse effects on human health, the Public Health (Animals and Birds)(Amendment) Regulation 2001 sought to, among others, segregate the sale of live quail from other live birds at retail level. As sale of quail was a sideline business of poultry retailers (and not profitable as a standalone one), retailers simply ceased selling quail after the segregation policy came into effect. Local quail farms choosing to wind up due to a lack of retail outlets after the commencement of this Amendment Regulation on 14 December 2001 were given EGP.

- (a) uplift the requirement that the premises in respect of which a licence is applied for (subject premises) must have been continuously used for keeping specified birds for at least 12 months before 13 February 2006; and
- (b) provide for that a licence will not be granted if ex-gratia payment for cessation of the keeping of specified birds on the subject premises has been made by the Government after 14 December 2001.

## **LEGISLATIVE TIMETABLE**

16. The legislative timetable is as follows –

Publication in the Gazette	13 Mar 2020
Tabling at the Legislative Council ("LegCo")	18 Mar 2020
Commencement	1 July 2020

## **IMPLICATIONS OF THE PROPOSALS**

17. The proposal is in conformity with the Basic Law, including the provisions concerning human rights. It will not affect the current binding effect of the existing provisions of the Public Health (Animals and Birds) Ordinance and its subsidiary legislation. It would allow the sustained operation of the trade. As to economic implications, the proposal would avoid the loss of business activities and closure of chicken farms arising from possible failure of relocation.

18. As for environmental implications, relocating existing livestock farms would immediately relieve their neighbours from environmental nuisance. As farms would only be moved to new sites identified in compliance with relevant legislation and prevailing planning guidelines, the potential environmental impacts of relocation to the public should be more manageable. Moreover, with better space layout at the new sites, these relocated farms would be able to install purpose-designed waste treatment and bio-security facilities, further reducing the risk of causing environmental pollution and nuisance. The potential environmental impacts of the new sites will be assessed with required mitigation measures imposed as conditions for approval of applications as set out in

paragraph 14. AFCD would consult relevant departments on processing applications for relocating livestock farm. The proposal is not expected to have productivity, family, gender, financial and civil service implications.

## **PUBLIC CONSULTATION**

19. We consulted the LegCo Panel on Food Safety and Environmental Hygiene on 10 July 2018 and Members were generally in support of the proposal. Various advisory bodies including the Advisory Council on Food and Environmental Hygiene, the Livestock Subcommittee of the Advisory Committee of Agriculture and Fisheries, and the trade were also consulted and in general welcome the proposal.

## **PUBLICITY**

20. A government spokesperson will be available to answer media and public enquiries. AFCD will inform local chicken farmers of the relaxation in regulatory requirements.

## **ENQUIRY**

21. For enquiries about this brief, please contact Mr Amor WONG, Principal Assistant Secretary for Food and Health, at 3509 7927.

**Food and Health Bureau  
Agriculture, Fisheries and Conservation Department  
March 2020**

**Public Health (Animals and Birds) (Licensing of Livestock Keeping) (Amendment) Regulation 2020**

(Made by the Chief Executive in Council under section 3 of the Public Health (Animals and Birds) Ordinance (Cap. 139))

**1. Commencement**

This Regulation comes into operation on 1 July 2020.

**2. Public Health (Animals and Birds) (Licensing of Livestock Keeping) Regulation amended**

The Public Health (Animals and Birds) (Licensing of Livestock Keeping) Regulation (Cap. 139 sub. leg. L) is amended as set out in section 3.

**3. Section 4 amended (power of Director to grant licence, etc.)**

(1) Section 4(2A)—

**Repeal paragraph (a).**

(2) Section 4(2A)(b)—

**Repeal**

“that commencement”

**Substitute**

“14 December 2001”.

Clerk to the Executive Council

COUNCIL CHAMBER

2020

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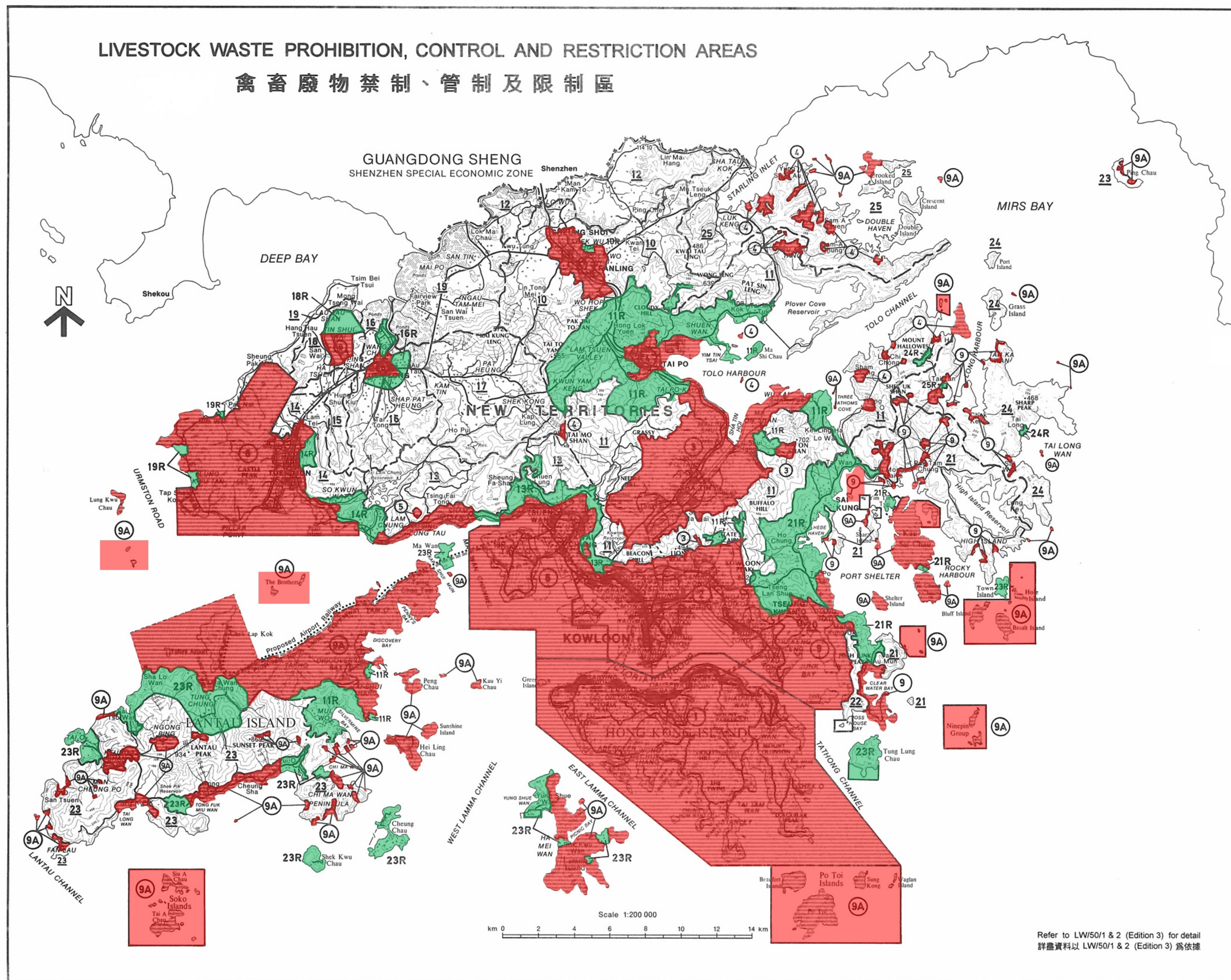
### Explanatory Note

This Regulation amends the Public Health (Animals and Birds) (Licensing of Livestock Keeping) Regulation (Cap. 139 sub. leg. L) (*principal Regulation*) to revise the statutory requirements for premises used for keeping specified birds (as defined by section 2 of the principal Regulation).

2. Under section 3 of the principal Regulation, a licence is required for the keeping of specified birds on any premises within a livestock waste control area (as defined by section 2 of the principal Regulation). The conditions that must be met in respect of the premises before the Director of Agriculture, Fisheries and Conservation can grant a licence for the premises are set out in section 4(2A) of the principal Regulation.
3. Section 3 of this Regulation amends that section 4(2A) by—
  - (a) repealing paragraph (a) of that section to uplift the requirement that the premises in respect of which a licence is applied for (*subject premises*) must have been continuously used for keeping specified birds for at least 12 months before 13 February 2006; and
  - (b) amending paragraph (b) of that section so that a licence will not be granted if ex gratia payment for cessation of the keeping of specified birds on the subject premises has been made by the Government after 14 December 2001.

LIVESTOCK WASTE PROHIBITION, CONTROL AND RESTRICTION AREAS

禽畜廢物禁制、管制及限制區



LEGEND 圖例

- PROHIBITION / RESTRICTION AREA BOUNDARY 禁制/限制區界線
- CONTROL AREA BOUNDARY 管制區界線
- LIVESTOCK WASTE PROHIBITION AREA NUMBER 禽畜廢物禁制區編號
- LIVESTOCK WASTE CONTROL AREA NUMBER 禽畜廢物管制區編號
- LIVESTOCK WASTE RESTRICTION AREA NUMBER 禽畜廢物限制區編號

LIVESTOCK WASTE PROHIBITION, CONTROL AND RESTRICTION AREAS 禽畜廢物禁制、管制及限制區

AREA No. 編號	LOCATION 地點
PROHIBITION AREAS 禁制區	<p>1-9 &amp; 9A URBAN COUNCIL AREA, REGIONAL COUNCIL AREA, ALL NEW TOWN AREAS, PART OF LANTAU ISLAND &amp; PART OF OUTLYING ISLANDS 城市局轄區、區域市政局轄區、所有新市鎮區、部份大嶼山及部份離島</p>
CONTROL AREAS 管制區	<p>10 PART OF RIVER INDUS AREA 部份格利河區</p> <p>11 TOLO HARBOUR &amp; PART OF TOLO CHANNEL AREA 吐露港及部份吐露港海峽區</p> <p>12 UPPER SHAM CHUN (SHENZHEN) RIVER AREA 深圳河上游區</p> <p>13 PART OF TSUEN WAN, LIU TO VILLAGE &amp; ENVIRONS &amp; TAI LAM CHUNG AREA 部份荃灣、流吐村一帶及大瀨灣區</p> <p>14 PART OF TSIEN MUN AREA 部份屯門區</p> <p>15 CORRIDOR BETWEEN TSIEN MUN &amp; YUEN LONG 屯門元朗走廊地帶</p> <p>16 PART OF YUEN LONG AREA 部份元朗區</p> <p>17 PART OF KAM TIN RIVER AREA 部份錦田河區</p> <p>18 PART OF TIN SHUI WAI AREA 部份天水圍區</p> <p>19 PART OF SAN TIN &amp; LAU FAU SHAN ENVIRONS 部份前田及流沙山一帶</p> <p>20 MAU WU TSAI VILLAGE &amp; ENVIRONS 茅湖仔村一帶</p> <p>21 PART OF SAI KUNG AREA 部份西貢區</p> <p>22 JUNK BAY ENVIRONS 鯉魚灣一帶</p> <p>23 PART OF OUTLYING ISLANDS 部份大嶼山</p> <p>24 PART OF LONG HARBOUR AREA 部份大瀨灣區</p> <p>25 PART OF STARLING INLET AREA 部份沙頭角海峽區</p>
RESTRICTION AREAS 限制區	<p>10R PART OF RIVER INDUS AREA 部份格利河區</p> <p>11R PART OF MAU WU &amp; PART OF TOLO CHANNEL AREA 部份流吐及部份屯門海峽區</p> <p>13R PART OF TSIEN MUN AREA 部份荃灣區</p> <p>14R PART OF TSIEN MUN AREA 部份屯門區</p> <p>16R PART OF YUEN LONG AREA 部份元朗區</p> <p>18R PART OF TIN SHUI WAI AREA 部份天水圍區</p> <p>19R PART OF SAN TIN AREA 部份前田區</p> <p>21R PART OF SAI KUNG AREA 部份西貢區</p> <p>23R PART OF OUTLYING ISLANDS 部份大嶼山</p> <p>24R PART OF LONG HARBOUR AREA 部份大瀨灣區</p> <p>25R PART OF STARLING INLET AREA 部份沙頭角海峽區</p>

ENVIRONMENTAL PROTECTION DEPARTMENT 環境保護署

PLAN No. 圖則編號 LW/200/1 (Edition 3)

Refer to LW/50/1 & 2 (Edition 3) for detail 詳盡資料以 LW/50/1 & 2 (Edition 3) 為依據