

立法會
Legislative Council

LC Paper No. CB(1)528/99-00
(These minutes have been seen
by the Administration)

Ref: CB1/SS/10/98/1

**Subcommittee on
Resolution under section 3 of the
Dogs and Cats Ordinance (Cap. 167) and
Dogs and Cats (Amendment) Ordinance 1997 (97 of 1997)
(Commencement) Notice 1999**

**Minutes of meeting
held on Friday, 3 September 1999, at 10:45 am
in Conference Room A of the Legislative Council Building**

- Members present** : Dr Hon TANG Siu-tong, JP (Chairman)
Hon David CHU Yu-lin
Hon Michael HO Mun-ka
Hon Ronald ARCULLI, JP
Hon HUI Cheung-ching
Hon Christine LOH
Hon CHAN Kwok-keung
Hon CHAN Wing-chan
Dr Hon LEONG Che-hung, JP
- Members absent** : Hon James TIEN Pei-chun, JP
Hon Eric LI Ka-cheung, JP
Hon Emily LAU Wai-hing, JP
- Public officers attending** : Miss Dora FU, Principal Assistant Secretary for Economic Services

Dr L D SIMS, Assistant Director (Acting), Agriculture and Fisheries Department

Dr Thomas SIT, Veterinary Officer, Agriculture and Fisheries Department

Miss Marie SIU, Senior Government Counsel, Department of

Justice

Clerk in attendance : Ms LEUNG Siu-kum, Chief Assistant Secretary (1)2

Staff in attendance : Ms Bernice WONG, Assistant Legal Adviser 1
Miss Becky YU, Senior Assistant Secretary (1)3

I Confirmation of minutes of previous meeting
(LC Paper No. CB(1) 1848/98-99)

The minutes of the meeting held on 6 July 1999 were confirmed.

II Meeting with the Administration
(LC Paper Nos. CB(1) 1849/98-99(01) to (04))

2. At the Chairman's invitation, the Assistant Director of Agriculture and Fisheries (Acting) (ADAF (Ag)) briefed members on the information papers (LC Paper Nos. CB(1) 1849/98-99(02) and (04)) setting out the Administration's response to concerns raised at the last meeting on 23 July 1999.

3. In view of the strong objection raised by the Hong Kong and Kowloon Kennel Association Limited (HKKKA), the Chairman asked whether the Association had been consulted on the draft Regulation. In reply, ADAF (Ag) affirmed that AFD had consulted and taken into consideration the views of HKKKA in the formulation of the Regulation. Ms Christine LOH considered that the Administration should review its consultation process to ensure that the parties concerned were aware that they were being consulted.

4. While agreeing that the muzzling requirement could reduce the number of dog bites in indoor public places, Ms LOH pointed out that it failed to address the problem of dog bites in other locations, such as dwellings and outdoor public places, where dogs were not required to be muzzled. In response, ADAF (Ag) stated that the risk of dog bites by fighting dogs and known dangerous dogs could be substantially reduced since they had to wear a muzzle in all indoor and outdoor public places. As regards large dogs, ADAF (Ag) stated that these could be controlled more effectively when leashed, preventing them from attacking. If the dog did bite, the extent of damages to the victim would be reduced as the owner could hold back the dog. According to information, only 8% of the total dog bite cases reported over the past two years were caused by dogs on leash.

5. Mr Ronald ARCULLI opined that apart from the muzzling requirement, the Administration should consider other alternatives to prevent dog bites, such as prohibiting the entry of dogs into lifts while there were other people in the lifts or requiring dog owners to use the stairs when moving their dogs to outdoor public places. ADAF (Ag) advised that the Administration had considered other options, including those suggested

by Mr ARCULLI, and concluded that the muzzling option was the simplest solution and a fair compromise since this would cause little inconvenience to dog owners while enhancing public safety. Besides, it was impractical to prohibit dog owners from using the lifts with their dogs, particularly if there was only one lift serving the building. As to how the muzzling requirement could be enforced in indoor public places, ADAF (Ag) remarked that the requirement would provide clear guidelines for management staff of individual buildings. AFD would act on complaint.

6. Ms LOH considered that in addition to the Regulation, the Administration should formulate a comprehensive dog policy to enhance dog awareness in Hong Kong. ADAF (Ag) advised that the Animal Welfare Advisory Group was working on educational plans and materials for promotion of responsible dog ownership. In the meantime, efforts would be focused on enhancing public safety.

7. On *fighting dogs*, Mr ARCULLI shared the views of some concern groups that the amount of ex-gratia payment of \$3,000 for each fighting dog surrendered for destruction would encourage unscrupulous breeders to deliberately begin to breed fighting dogs with a view to making profit. The Chairman also cautioned about the possible increase in smuggling of fighting dogs into Hong Kong as a result of the implementation of the compensation scheme. ADAF (Ag) said that the Administration was equally concerned about the possible abuse of the scheme. Given the lag time of about five months for breeding and licensing of dogs, the Administration concluded that only those over five-month old fighting dogs with a valid licence and present in Hong Kong before the commencement of the Regulation would be eligible for the ex-gratia payment when they were surrendered to DAF for destruction during the transitional period. He added that the Administration was not aware of any increase in smuggling of fighting dogs into Hong Kong at the present stage. As regards the amount of ex-gratia payment of \$3,000, ADAF (Ag) considered the amount reasonable having regard to the high market price and maintenance cost for fighting dogs. Moreover, the Administration hoped that the ex-gratia payment would encourage dog owners to surrender their fighting dogs for destruction at an early stage so as to expedite the process of phasing out of these dogs in Hong Kong.

8. On *large dogs*, Mr Michael HO referred to Table 1 of Appendix A to LC Paper No. CB(1) 1849/98-99(02) and enquired about the percentage of dog bites which were caused by large dogs. ADAF (Ag) advised that as dog bite cases were categorized by breed rather than size of dogs, AFD could only estimate the size of the dogs involved from the available data. According to information, about 75% of dog bite cases investigated by AFD were inflicted by large dogs.

9. As regards the exemption examination for large dogs, ADAF (Ag) emphasized that the objective of the examination was to ensure that the dogs without leash would not represent a threat to the public. Mr ARCULLI opined that the examination might not be fair to some large dogs which were old and less receptive to new things. ADAF (Ag) clarified that the exemption mechanism did not contain a training component. Dog owners who could demonstrate through examination that their dogs could be controlled off leash in a range of standard day-to-day live situations might be exempt from parts of the Regulation. On the frequency of the exemption tests, ADAF (Ag) advised that the tests

would be held on a regular basis. He added that the Administration would step up publicity to enhance the public's understanding of the procedures of the examination.

10. On *stray dogs*, Mr HO asked if the Administration could provide a breakdown of biter dogs in Table 3 of Appendix A to LC Paper No. CB(1) 1849/98-99(02) by size which were actually stray dogs. ADAF (Ag) advised that the Administration was not able to provide such information as the number of biter dogs referred to consisted of kept dogs that were unlicensed and unclaimed by their keepers or stray dogs that had no keepers. He stressed that the number of genuine stray dogs in Hong Kong was very low and a large proportion of stray dogs in Hong Kong were in fact owned dogs which were allowed to wander. ADAF (Ag) assured members that enforcement would be stepped up against these dogs.

11. On *dogs on construction sites*, ADAF (Ag) shared Mr CHAN Wing-chan's concern that these dogs would become stray dogs after the completion of construction projects. To this end, AFD had obtained a list of all construction sites from the Buildings Department. Respective site managers were reminded of the need to get the dogs on their construction sites licensed. The animal management staff of AFD would visit construction sites regularly and catch any unlicensed dogs on construction sites. In the event that a licensed dog was found abandoned after completion of a construction project, the person in charge of the project would be liable to prosecution under the Rabies Ordinance. The Administration had also drawn up guidelines on management of dogs on construction sites which would form part of the tender document for construction projects to ensure compliance with the requirements.

12. Members then proceeded to examine the Regulation section by section.

Part I Preliminary

Section 1. Commencement

Section 2. Interpretation

13. No particular comments were made on these sections.

Part II Control of fighting dogs

Section 3. Removal of fighting dogs from a conveyance arriving in Hong Kong

14. The Chairman expressed concern that owners of licensed fighting dogs would inadvertently commit an offence under section 3 when they brought their dogs back to Hong Kong from an outbound trip. The Senior Government Counsel (SGC) explained the policy intent of the Regulation which was to prohibit importation of fighting dogs. Therefore, unless with an exemption, no one was allowed to bring any fighting dog into Hong Kong. Mr ARCULLI was not convinced of the Administration's response. He considered that the Regulation was aimed at regulating importation of new fighting dogs rather than existing fighting dogs. The Principal Assistant Secretary for Economic Services (PASES) undertook to consider members' views.

Section 4. Importation of fighting dogs

15. Mr ARCULLI opined that the Administration should provide a definition for the term "importation" under section 2. SGC considered it not necessary as the term "import" had already been defined under the Interpretation and General Clauses Ordinance.

Section 5. Possession of fighting dogs

Section 6. Breeding of fighting dogs

16. No particular comments were made on these sections.

Section 7. Fighting dogs entering or remaining in public places

17. Mr ARCULLI questioned the rationale behind the reference to age, which was set arbitrary, for persons controlling the three categories of dogs in public places under sections 7(b), 9(1)(b), 9(2) and 12(b). ADAF (Ag) explained that the age reference was necessary since fighting dogs, known dangerous dogs and large dogs were generally strong dogs which young persons might not be able to control effectively. Moreover, persons under the age of 16 were apparently not legally liable for any actions of their dogs. Mr ARCULLI did not accept the Administration's explanation since the actual dog owners should be held responsible for their dogs. Ms LOH also pointed out that some persons under the age of 16 could be physically strong enough to control their dogs. She cautioned that the age restriction would prohibit a person below the age of 16 from taking a large dog in muzzle to cross a road to a country park where it could be exercised off leash. PASES undertook to consider members' views.

18. As to how a dog owner could ensure that a dog was securely fitted with a muzzle, SGC advised that guidelines in this respect would be drawn up by AFD. The Chairman asked if a person would commit an offence under section 7(b) for tying his dog in outdoor public places for urgent business. PASES undertook to consider the Chairman's view.

Section 8. Identification of fighting dogs

19. On the form and manner for identification of fighting dogs, ADAF (Ag) advised that the initial proposal was for fighting dogs to wear a conspicuous collar with red and yellow stripes so that the public could recognize these dogs from a distance.

Part III Control of large dogs

Section 9. Large dogs entering or remaining in public places

20. Mr ARCULLI asked if the age reference also applied to persons under the age 16 who had to use a guide dog weighing over 20 kg. ADAF (Ag) advised that DAF was authorized under the Dogs and Cats Ordinance to grant exemptions for certain classes of dogs, including guide dogs.

Part IV Control of known dangerous dogs

Section 10. Classification as a known dangerous dog by magistrate's order

21. Given that watch dogs were kept to put strangers in fear, the Chairman expressed concern that these dogs would fall under the category of "known dangerous dogs" according to section 10(2)(c). ADAF (Ag) clarified that a magistrate would only classify a dog as a known dangerous dog if it had a history of repeatedly putting people in fear in the absence of provocation of any form. As such, no actions would be taken against watch dogs if they just put trespassers, which constituted a form of provocation, in fear. To avoid possible abuse of the provision by people who did not like dogs, Mr ARCULLI considered that the Administration should clarify the meaning of "provocation". ADAF (Ag) assured members that AFD would investigate a complaint case carefully before an application was made to the Court to classify a dog as a known dangerous dog. Besides, the question as to whether a dog had put people in fear would be for the magistrate to decide.

Section 11. Possession of known dangerous dogs

22. Mr ARCULLI noticed that a person who kept a fighting dog would be subject to heavier penalties than keeping a known dangerous dog. He considered that the difference in penalties merely on account of dog breeds was unfair. ADAF (Ag) explained that the decision to impose heavier penalties on fighting dogs was made having regard to their ability to inflict severe damages when they attacked.

Section 12. Known dangerous dogs entering or remaining in public places

Section 13. Identification of known dangerous dogs

23. No particular comments were made on these sections.

Part V Miscellaneous

Section 14. Power to give direction

24. On the identity of authorized officers under section 14(1), SGC explained that this had been provided for under sections 2 and 5A of the Dogs and Cats Ordinance.

25. Referring to section 14(1)(b), Mr ARCULLI enquired about the circumstances under which a dog keeper was required to deliver his dog for detention. ADAF (Ag) clarified that the Administration would only detain a dog if it attacked someone and was being investigated by AFD. Mr ARCULLI opined that the Administration should specify the situations in which the power to detain a dog would be exercised. ADAF(Ag) took note of Mr ARCULLI's view.

Section 15. Appeal

Section 16. Classification of fighting dogs

26. No particular comments were made on the sections.

Section 17. Certificate of classification

27. ADAF (Ag) advised that the Dogs and Cats Classification Board was responsible for determining whether a dog was a fighting dog.

Section 18. Detention fee

28. In response to the Chairman's question, ADAF (Ag) confirmed that the detention fee included maintenance cost for dogs during the period of detention.

Section 19. Amendment of Schedules

29. Having regard to the impact of the Schedules on classification and body weight of dogs on the public, Mr ARCULLI considered that any amendments to these Schedules should be subject to positive vetting of the Legislative Council. PASES clarified that amendments to these Schedules would only involve technical amendments. The Administration therefore considered it appropriate to subject these amendments to negative vetting. She nevertheless undertook to further consider Mr ARCULLI's view.

Section 20. Transitional provisions

30. Given that some owners of fighting dogs might not want the ex-gratia payment in respect of the surrender of their dogs, Mr ARCULLI opined that the drafting of section 20(2)(a) should be refined to provide for such a scenario. He also considered that the Administration should specify in section 20(2)(b) the eligibility of new bred fighting dogs for the ex-gratia payment. PASES clarified that only those fighting dogs which were present in Hong Kong before the commencement of the Regulation and with a valid dog licence would be eligible for the ex-gratia payment. Unborn pups would not be eligible for the payment.

III Any other business

31. Members agreed to hold the next meeting on Tuesday, 5 October 1999, at 10:45 am.

32. There being no other business, the meeting ended at 12:40 pm.

Legislative Council Secretariat

3 December 1999