

**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**

Introduction

On 5 October 1999, the Administration proposed a number of amendments to the Dangerous Dogs Regulation (the Regulation) in the information paper [LC Paper No. CB(1) 1988/98-99(02)] to address Members' concerns. After discussion, the Administration undertook to provide the revised draft Regulation reflecting the agreed changes for Members' consideration.

The revised draft Regulation

2. The revised draft Regulation, with amendments highlighted, is at the Annex. The major amended sections are as follows while the other amendments are minor and technical in nature.

- (a) **Sections 3 and 4** create offences in relation to the removal of fighting dogs from a conveyance and the importation of fighting dogs. They are amended such that a person who takes a fighting dog licensed under section 19A of the Rabies Regulation (Cap. 421 sub. leg.) out of Hong Kong will not commit an offence when they return home.

- (b) **Sections 7, 9 and 12** provide for the control of fighting dogs, large dogs and known dangerous dogs respectively in public places. These sections are amended by removing the reference to age for the person controlling such dogs.
- (c) **Sections 9(2) and (3)** are amended such that a person would not commit an offence if he/she causes, suffers or permits a large dog to enter or remain in an outdoor public place if the dog is securely tied to a fixed object on a leash in a manner that does not pose a danger to the public and animal safety, and the welfare of the dog.
- (d) **Section 10** provides that a magistrate may by order classify a dog as a known dangerous dog on application to him showing that the dog has, amongst other things, a history of repeatedly putting people in fear of being attacked, as distinct from only putting them in fear as proposed in the original draft Regulation.
- (e) **Section 19** is amended such that amendments to Schedules 1 and 2 of the Regulation, which set out the classification of fighting dogs and the weight of large dogs respectively, are subject to the approval of the Legislative Council.

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DANGEROUS DOGS REGULATION

(Made by the Chief Executive in Council under section 3
of the Dogs and Cats Ordinance (Cap. 167)
with the approval of the Legislative Council)

PART I

PRELIMINARY

1. Commencement

This Regulation shall come into operation on a day to be appointed by the Secretary for Economic Services by notice in the Gazette.

2. Interpretation

In this Regulation, unless the context otherwise requires -

"fighting dog" (格鬥狗隻) means a dog of a type listed in Schedule 1;

"indoor public place" (戶內公眾地方) means any public place which is within a building;

"known dangerous dog" (已知危險狗隻) means a dog classified as a known dangerous dog by an order under section 10(1);

"large dog" (大型狗隻) means a dog having such body weight as is specified in Schedule 2 but does not include a fighting dog or a known dangerous dog;

"outdoor public place" (戶外公眾地方) means any public place which is not within a building but does not include any place in a country park

or a special area within the meaning of the Country Parks Ordinance (Cap. 208);

"public place" (公眾地方) means -

(a) any place to which the public or a section of the public are entitled or permitted to have access -

(i) whether the place is the property of the Government or not; and

(ii) whether on payment or otherwise;

(b) any part of a building, a development or an estate to which all those occupying the building, the development or the estate are entitled or permitted to have access -

(i) whether the building, development or estate is the property of the Government or not; and

(ii) whether on payment or otherwise,

but does not include a building, a development or an estate which contains not more than one domestic premises;

"veterinary certificate" (獸醫證明書) means a certificate issued by a veterinary surgeon;

"veterinary surgeon" (獸醫) means a registered veterinary surgeon within the meaning of the Veterinary Surgeons Registration Ordinance (Cap. 529).

PART II

CONTROL OF FIGHTING DOGS

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

(1) A person who removes or causes, suffers or permits to be removed a fighting dog from any conveyance arriving in Hong Kong commits an offence and is liable on conviction to a fine at level 5 and to imprisonment for 6 months.

(2) Where subsection (1) is contravened, the owner and the operator of the conveyance from which the fighting dog is removed each commits an offence and each is liable on conviction to a fine at level 4 and to imprisonment for 6 months.

(3) This section shall not apply to fighting dogs which are licensed under section 19A of the Rabies Regulation (Cap. 421 sub. leg.).

4. Importation of fighting dogs

(1) A person who imports or causes, suffers or permits to be imported into Hong Kong a fighting dog commits an offence and is liable on conviction to a fine at level 5 and to imprisonment for 6 months.

(2) Where subsection (1) is contravened, the owner and the operator of any conveyance in or on which the fighting dog was imported into Hong Kong each commits an offence and each is liable on conviction to a fine at level 4 and to imprisonment for 6 months.

(3) This section shall not apply to fighting dogs which are licensed under section 19A of the Rabies Regulation (Cap. 421 sub. leg.).

5. Possession of fighting dogs

(1) Subject to subsection (2), a person who is the keeper of a fighting dog commits an offence and is liable on conviction to a fine at level 5 and to imprisonment for 6 months.

(2) The keeper of a fighting dog does not commit an offence under subsection (1) if he shows that there is a veterinary certificate certifying that the dog has been neutered.

6. Breeding of fighting dogs

A person who breeds or breeds from, or causes, suffers or permits to breed or breed from, a fighting dog commits an offence and is liable on conviction to a fine at level 5 and to imprisonment for 6 months.

7. Fighting dogs entering or remaining in public places

A person who causes, suffers or permits a fighting dog to enter or remain in a public place -

- (a) without the dog being securely fitted with a muzzle sufficient to prevent it from biting any person; or
- (b) without it being securely held on a leash of not more than 1.5 m in length by a person,

commits an offence and is liable on conviction to a fine at level 4 and to imprisonment for 6 months.

8. Identification of fighting dogs

(1) The Director may, by notice published in the Gazette, require that a fighting dog shall be identified in such form and manner (including

but not limited to the wearing of a collar and the implanting of any device) as is specified in the notice.

(2) Where a fighting dog is not identified in accordance with a notice published under subsection (1), the keeper of the dog commits an offence and is liable on conviction to a fine at level 4 and to imprisonment for 6 months.

(3) For the avoidance of doubt, it is hereby declared that a notice under subsection (1) is subsidiary legislation.

PART III

CONTROL OF LARGE DOGS

9. Large dogs entering or remaining in public places

(1) A person who causes, suffers or permits a large dog to enter or remain in an indoor public place -

(a) without the dog being securely fitted with a muzzle sufficient to prevent it from biting any person; or

(b) without it being securely held on a leash of not more than 1.5 m in length by a person,

commits an offence and is liable on conviction to a fine at level 4 and to imprisonment for 3 months.

(2) No person shall cause, suffer or permit a large dog to enter or remain in an outdoor public place unless the dog -

(a) is being securely held on a leash of not more than 2 m in length by a person; or

(b) is securely tied to a fixed object on a leash of not more than 1.5 m in length in a manner that does not pose a danger to public and animal safety, and welfare of the dog.

(3) A person who contravenes subsection (2) commits an offence and is liable on conviction to a fine at level 4 and to imprisonment for 3 months.

PART IV

CONTROL OF KNOWN DANGEROUS DOGS

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

(1) Without prejudice to the power of a magistrate under section 5 of the Ordinance but subject to subsection (2), a magistrate may, upon an application made in that behalf, by order classify a dog as a known dangerous dog.

(2) No order shall be made under subsection (1) unless the magistrate is satisfied that -

- (a) a person has died or suffered serious bodily injury as a result of any bite or attack inflicted by the dog, whether in a public place or not, in the absence of provocation of any form;
- (b) a domestic animal has died or suffered serious bodily injury as a result of any bite or attack inflicted by the dog, whether in a public place or not, in the absence of provocation of any form; or

- (c) the dog has a history of repeatedly attacking people or otherwise putting people in fear of being attacked, whether in a public place or not, in the absence of provocation of any form.
- (3) For the purposes of subsection (2) -
- (a) a person suffers serious bodily injury if he suffers any bodily injury of a kind which results in his being admitted to a hospital for treatment as an in-patient;
 - (b) a domestic animal suffers serious bodily injury if it suffers any bodily injury of a kind which results in -
 - (i) its being admitted to a veterinary clinic or hospital for surgery under general anaesthesia; or
 - (ii) its being destroyed on animal welfare grounds, by a veterinary surgeon.

11. Possession of known dangerous dogs

(1) Subject to subsection (2), a person who is the keeper of a known dangerous dog after the expiry of 90 days from the date of the order made under section 10(1) in respect of the dog commits an offence and is liable on conviction to a fine at level 4 and to imprisonment for 3 months.

(2) The keeper of a known dangerous dog does not commit an offence under subsection (1) if he shows that there is a veterinary certificate certifying that the dog has been neutered.

12. Known dangerous dogs entering or remaining in public places

A person who causes, suffers or permits a known dangerous dog to enter or remain in a public place -

(a) without the dog being securely fitted with a muzzle sufficient to prevent it from biting any person; or

(b) without it being securely held on a leash of not more than 1.5 m in length by a person,

commits an offence and is liable on conviction to a fine at level 4 and to imprisonment for 3 months.

13. Identification of known dangerous dogs

(1) The Director may, by notice published in the Gazette, require that a known dangerous dog shall be identified in such form and manner (including but not limited to the wearing of a collar and the implanting of any device) as is specified in the notice.

(2) Where a known dangerous dog is not identified in accordance with a notice published under subsection (1), the keeper of the dog commits an offence and is liable on conviction to a fine at level 4 and to imprisonment for 3 months.

(3) For the avoidance of doubt, it is hereby declared that a notice under subsection (1) is subsidiary legislation.

PART V

MISCELLANEOUS

14. Power to give directions

(1) For the purposes of the Ordinance or this Regulation, an authorized officer may, by notice in writing, direct the keeper of a dog to -

- (a) present the dog for weighing or inspection or both at such place and in such manner as may be specified in the direction;
- (b) deliver the dog for detention at such place, in such manner and for such period of detention as may be specified in the direction;
- (c) confine the dog to such place, in such manner and for such period as may be specified in the direction;
- (d) control or restrain the dog while it is in a public place or in any other place from which it may reasonably be expected to enter a public place by such measures as may be specified in the direction.

(2) The keeper of a dog who fails to comply within a reasonable time with a direction given to him under subsection (1) commits an offence and is liable on conviction to a fine at level 3 and to imprisonment for 3 months.

15. Appeal

(1) A person who is aggrieved by a direction given by an authorized officer in respect of him under section 14 may, within 28 days after receiving notice of the direction, appeal to the Administrative Appeals Board.

(2) An appeal under this section shall not affect the operation of the direction that is appealed against, unless the Director decides otherwise and the notice of the direction contains a statement to that effect.

16. Classification of fighting dogs

(1) In the absence of any previous determination in respect of a dog by the Board upon application to it under section 17, an authorized officer may at any time, by notice in writing, notify the keeper of the dog whether the dog is classified as a fighting dog for the purposes of this Regulation.

(2) (a) Subject to paragraph (b), where a dog is classified as a fighting dog pursuant to subsection (1), the dog shall be regarded as a fighting dog for the purposes of this Regulation.

(b) Where an application is made under section 17 for determination in respect of a dog which is classified as a fighting dog pursuant to subsection (1), the dog shall cease to be regarded as a fighting dog for the purposes of this Regulation as from the day on which the Director receives notice of the application by virtue of section 17, until the application has been disposed of, withdrawn or abandoned.

17. Certificate of classification

(1) (a) Where a dog is classified as a fighting dog pursuant to section 16(1), the keeper of the dog may within 14 days after receiving notice of the classification, by notice in writing served on the Director, apply to the Board for a determination as to whether the dog is a fighting dog.

(b) In the absence of any previous determination in respect of a dog by the Board upon application to it under this section, an authorized officer may at any time, by notice in writing served on the Director, apply to the Board for a determination as to whether the dog is a fighting dog.

(2) The Director shall, within 7 days after receiving a notice of an application by virtue of subsection (1), forward the notice to the Chairman of the Board.

(3) Where any question arises in any proceedings (including proceedings before the Administrative Appeals Board) under the Ordinance or this Regulation as to whether a dog is a fighting dog, a certificate purporting to be signed by a person as the Chairman of the Board stating any fact relating to that question shall, for the purposes of those proceedings, be admissible in evidence on its production and be conclusive evidence of that fact.

18. Detention fee

The detention fee payable by the keeper of a dog to the Director in respect of the detention of the dog under the Ordinance or this Regulation shall be at the rate specified in Schedule 3.

19. Amendment of Schedules

(1) The Secretary may, with the approval of the Legislative Council, by notice published in the Gazette, amend Schedules 1 and 2.

(2) The Secretary may, by notice published in the Gazette, amend Schedule 3.

20. Transitional provisions

(1) Notwithstanding anything to the contrary in this Regulation, a person shall not be liable under section 5 solely because he is the keeper of an existing fighting dog during the transitional period.

(2) (a) Where during the transitional period the keeper of an existing fighting dog surrenders the dog to the Director for destruction under the Ordinance, the Director may, subject to paragraph (b), pay to the keeper a sum of \$3,000 in respect of the surrender of the dog.

(b) No payment shall be made pursuant to paragraph (a) in respect of an existing fighting dog unless immediately before the commencement of section 5 of this Regulation

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(i) the dog is present in Hong Kong; and

(ii) the keeper holds a valid licence granted under section 19A of the Rabies Regulation (Cap. 421 sub. leg.) in respect of the dog.

(3) Any sum payable under subsection (2) shall be a charge on and payable out of the general revenue.

(4) In this section, "transitional period" (過渡期) means the period of 120 days from the commencement of section 5 of this Regulation.

Consequential Amendments

Administrative Appeals Board Ordinance

21. Schedule amended

The Schedule to the Administrative Appeals Board Ordinance (Cap. 442) is amended by adding -

"44. Dangerous Dogs Regulation (L.N. of 1999)	A direction by an authorized officer under section 14 of the Regulation."
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SCHEDULE 1 [ss. 2 & 19]

FIGHTING DOGS

1. Any dog of the type known as the Pit Bull Terrier.
2. Any dog of the type known as the Japanese Tosa.
3. Any dog of the type known as the Dogo Argentino.
4. Any dog of the type known as the Fila Brasileiro.
5. Any dog which is a cross involving the breed of any dog of a type set out in any of the above sections.

SCHEDULE 2 [ss. 2 & 19]

BODY WEIGHT

20kg or above.

SCHEDULE 3

[ss. 18 & 19]

DETENTION FEE

\$120 for each day or part of a day during which a dog is detained under the Ordinance or this Regulation.

Clerk to the Executive Council

COUNCIL CHAMBER

1999