



中華人民共和國香港特別行政區政府總部食物及衛生局  
Food and Health Bureau, Government Secretariat  
The Government of the Hong Kong Special Administrative Region  
The People's Republic of China

Our ref : FH CR 3/3231/07  
Your ref: LS/S/24(2)(A)/15-16

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Miss Winnie LO  
Assistant Legal Adviser 7  
Legal Service Division  
Legislative Council Secretariat  
Legislative Council Complex  
Central, Hong Kong.

Dear Miss LO,

**Public Health (Animals and Birds)(Animal Traders) (Amendment) Regulation  
2016 (Amendment Regulation) (L.N. 64 of 2016)**

I refer to your letter of 17 June 2016, in which you sought clarification on a number of aspects about the Amendment Regulation. Our response is as follows.

Renewal of a licence

As with the animal trader licence currently in place, a licence is valid for a period of 12 months. The regulation has not specified the time by which the licensee has to make application for the renewal of a licence. This being the case, it is the responsibility of the licensee to make an application for renewal in good time. Upon receipt of the application, the Agriculture, Fisheries and Conservation Department (AFCD) will process it without undue delay. In the event that the previous licence held by the licensee expires before the relevant licence is renewed, the licensee concerned has to cease the relevant licensed activities, otherwise the person may be liable to be prosecuted for carrying on the relevant activities without a licence.

If the Director of Agriculture, Fisheries and Conservation (DAFC) intends not to renew a licence, in line with the established practice, DAFC will inform the licensee concerned of the intention and provide him/her with the reason(s) for that decision. The licensee concerned who is dissatisfied with the decision may appeal to the Chief Executive in Council as provided under section 11 of the Public Health (Animals and Birds) Ordinance (Cap. 139).

Regulation 13 – Offences and penalties

As we have explained at the Subcommittee meeting, if a licensee being a body corporate or partnership commits an offence, it will be the licensee who is liable to be prosecuted for the offence committed. This said, DAFC may take into account the relevant incident in determining whether the individual authorised to act as the representative of body corporate or partnership for the purpose of the licence remains a suitable person to manage the operation of that body corporate or partnership.

Appeal against the Director's decision

Section 11 of the Public Health (Animals and Birds) Ordinance (Cap. 139) provides for the appeal to the Chief Executive in Council by any person dissatisfied with a decision or the exercise of the discretion of DAFC. This appeal mechanism has been in place for many years and has been functioning well. The Government has no plan at this stage to review the mechanism.

Code of Practice

As we have explained at the Subcommittee meeting, DAFC is empowered to attach to a licence any condition the Director thinks fit and all licensees will be subject to one common condition that the licensee must comply with the Code of Practice (CoP) of the corresponding type of licence. The relevant CoP serves to ensure that all personnel, who are involved in the licensed activities, are fully aware of their responsibilities in assuring the good welfare of dogs under their care and management. In this regard, the CoP sets out the required "duty of care" standards and other requirements, including those necessary for compliance with the statutory requirements under the relevant provisions in the Public Health (Animals and Birds)(Animal Traders) Regulations, Cap. 139B, e.g. regulations 7, 9 and 10. As such, depending on the circumstances of a case, non-compliance with the CoP may be a breach of these statutory requirements or licence condition, which pursuant to regulation 13(2)(a) or (b) is an offence and is liable on conviction to a fine at level 5 (currently at \$50,000).

Please let us know if further clarification is required.

Yours sincerely,



(Hinny LAM)

for Secretary for Food and Health

c.c. Director of Agriculture, Fisheries and Conservation

(Attn : Dr. Thomas SIT)(Fax : 2311 3731)

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