

**Subcommittee on Public Health (Animals and Birds) (Animal Traders) (Amendment) Regulation 2016
and Specification of Public Offices (Amendment) Notice 2016**

Summary of views expressed/suggestions made by deputations/individuals at the meeting on 14 June 2016

	Major views expressed/suggestions made	Administration's response
(1)	<p>The Public Health (Animals and Birds) (Animal Traders) (Amendment) Regulation 2016 ("Amendment Regulation") would produce an unintended effect of legalizing private breeding of dogs. If regulatory control over dog breeding activities was considered necessary, the Administration should introduce a single-tier licensing regime for dog breeders and subject all licensees to the more stringent Dog Breeder Licence Category B ("DBLB") for more effective enforcement of the amended Public Health (Animals and Birds) (Animal Traders) Regulations (Cap. 139B) and better protection of animal welfare.</p>	<p>As explained in the Legislative Council Brief (File Ref.: FH CR 3/3231/07), under the existing Cap. 139B, a person who sells his own pet or the pet's offspring is not required to obtain an animal trader licence. The Amendment Regulation would now put such activity under regulation whereby any person who keeps female dogs for breeding and sells, or offers to sell, the dogs or the offspring of the dogs, must obtain a dog breeder licence.</p> <p>A licensing regime will give an anchoring point for the Agriculture, Fisheries and Conservation Department ("AFCD") to carry out inspection, promotion and education work concerning dog breeding activities. From the Government's point of view, it is more appropriate to set up a two-tier licensing regime. Most of the small-scale breeders already in existence (sometimes referred to as "hobby-breeders" or "home-breeders") keep their dogs as pets and live with them in a household. With a pragmatic threshold, such breeders would not have any excuse not to apply for a licence. It might not be reasonable to require them to construct kennels and other facilities for accommodation</p>

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		<p>of dogs at the same standard as those imposed on commercial breeders. By implementing a two-tier licensing regime, we are placing the breeding activities of such hobby-breeders under regulation, thereby offering better protection to the welfare of dogs. If there is only one type of animal breeder licence applicable to all licensees, the hobby-breeders may be discouraged from coming forward and it may even drive such breeding activities underground, increasing the level of difficulty in AFCD's regulatory work.</p> <p>The Government notes that different stakeholders may have different views on the proposed amendments. Having weighed the views received and other relevant considerations, the Government remains of the view that the Amendment Regulation, including the two-tier licensing regime, could serve the policy objectives of enhancing animal health and welfare well, and strike a right balance between protection of animal welfare and the interests of pet owners and animal traders.</p>
(2)	<p>The Administration should raise the threshold for the granting and renewal of dog breeder licences and put a cap on each types of licence to be issued under the new licensing regime.</p>	<p>As stipulated in the Amendment Regulation, the Director of Agriculture, Fisheries and Conservation ("DAFC") must not grant or renew a dog breeder licence unless the Director is satisfied that the primary enclosures, housing facilities and outdoor areas of the premises in which the applicant intends to keep dogs conform to the specified standards. The regulation also stipulates that DAFC must not grant or renew a dog</p>

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		<p>breeder licence unless the person satisfies the Director that the person is a suitable person to hold the licence, and that DAFC may take into account all relevant factors in determining whether the person is a suitable person to hold a licence. In addition, DAFC may also attach to a licence any condition the Director thinks fit.</p> <p>The Government does not see any objective basis or justification for imposing a cap on the number of dog breeder licence under the revised licensing regime.</p>
(3)	The Administration should set out more stringent requirements in the Codes of Practice (“CoPs”) for licensed animal traders and dog breeders as part of the licence conditions, so as to safeguard animal welfare.	<p>At the meeting of the LegCo Panel on Food Safety and Environmental Hygiene (“FSEH Panel”) on 14 June 2016 (at which members of this Subcommittee were invited to attend), members were briefed on the proposed CoPs for licensed animal traders trading in dogs and licensed dog breeders (see LC Papers No. CB(2)1675/15-16(04) for details). The key features of the proposed CoPs are summarised in the Panel paper and the full set of the proposed CoPs (and the licence conditions) could be found at AFCD’s website (http://www.pets.gov.hk/en_business_3_1_5.php#btop).</p> <p>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, namely that the licensee must comply with the CoP of the corresponding type of licence. The CoP sets out the required “duty of care”</p>

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		standards and other requirements, including those necessary for compliance with the statutory requirements under the relevant provisions in 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 which may render the offender liable on conviction to a fine at level 5 (currently \$50,000).
(4)	The Administration should require dog breeders to attend compulsory training to equip themselves with the necessary knowledge and skills for dog breeding. Licensees and their staff (if any) should pass the relevant examination after completion of the training programmes.	The CoPs require all licensees to receive structured training at a training institution recognised by AFCD. The requirement also applies to staff working at the licensed premises of the holder of an animal trader licence or a dog breeder licence (category B). More details can be found in the Panel paper and the full set of the CoPs (see point 3 above) available on AFCD's website.
(5)	The Administration should allocate adequate resources and manpower for enforcing the enhanced regulatory regime, in particular conducting inspections on licensed animal traders/dog breeders from time to time for compliance check.	To cope with the anticipated increase in workload, through the additional provision of seven permanent civil service posts and redeployment of staff currently engaged in duties related to Cap. 139B, AFCD anticipates that there will be some 30 officers deployed to discharge duties in relation to the licensing of animal trading activities and enhancing the relevant control measures after commencement of the Amendment Regulation. AFCD will devise an appropriate enforcement strategy to optimise the utilisation of its

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		resources. It will also closely monitor the workload and manpower situation after the enactment of the Amendment Regulation and review the resource requirement from time to time.
(6)	The Administration should take into account the terms and conditions in land leases and deeds of mutual covenant (“DMCs”) of a building in determining whether or not to grant/renew a dog breeder licence. To avoid nuisance caused to neighbouring residents and to protect dogs from a poor breeding environment, the Administration should consider prohibiting breeding activities at residential buildings.	In general, it is the responsibility of the applicant to ensure compliance with all the requirements imposed under the relevant legal documents relating to the premises concerned, including the relevant provisions in DMCs. Application and enforceability of the relevant requirements set out in DMCs are outside the ambit of AFCD’s regulatory power under the related licensing regime as provided for in the Public Health (Animals and Birds) Ordinance (Cap. 139). Nevertheless, if there is evidence to indicate that any breach of the relevant provisions in the relevant DMC may render the premises concerned less than suitable to be used for the regulated activity (breeding of dogs in this case) or adversely affect compliance with the relevant requirements, depending on the circumstances of the particular cases, it may be one of the relevant factors for DAFC to take into account when considering whether to grant (or renew) the licence.
(7)	The Administration should exercise due care in considering exemption for animal welfare organizations (“AWOs”) from the requirement to obtain an Animal Trader Licence (“ATL”), so as to prevent illegal pet trading activities conducted by	As stipulated in the Amendment Regulation, DAFC may exempt a person (including an AWO) from holding an animal trader licence if the Director is satisfied that the person is conducting genuine rehoming activities for animal welfare purposes on a non-profit making basis.

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	commercial breeders who operate under the disguise of AWOs.	In deciding whether to grant an exemption, DAFC may take into account all relevant factors, including those set out in the new regulation 5A. DAFC may also attach to an exemption any condition the Director thinks fit, and may at any time revoke an exemption if any condition of the exemption has been contravened or the person to whom the exemption is granted no longer satisfies the Director that he/she is conducting genuine rehoming activities for animal welfare purposes on a non-profit making basis.
(8)	The Administration should consider extending the licensing system to cats and other pet animals.	The Government would keep in view the effectiveness of the new regulation and assess the need to extend the coverage of the regulation to cats and/or other pet animals in due course.
(9)	The Administration should make reference to animal protection legislation in developed countries/places and provide a timetable for reviewing the new licensing regime after its implementation.	The Government would keep in view the effectiveness of the new regulation and report progress to the FSEH Panel in around two years' time after the implementation of the new licensing regime.
(10)	The Administration should work towards the objective of achieving "zero pet trading" and consider imposing a total ban on animal trading and breeding in future. The Administration should also promote adoption of animals to reduce the number of animal trading.	The Government has been putting efforts in promoting responsible pet ownership and animal adoption. Our work on this front was discussed at the Subcommittee on Issues Relating to Animal Welfare and Cruelty to Animals set up under the FSEH Panel at the meeting on 22 March 2016. Details are set out in LC Paper No. CB(2)1097/15-16(01).

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(11)	The Administration should set up a dedicated bureau/department to formulate policies on animal welfare and oversee the regulation of animal trading and related business.	Policy matters relating to animal welfare and management are under the oversight of the Food and Health Bureau, and AFCD is the executive department responsible for the regulation of animal trading and related business, management of pet and stray animals, and prevention of animal cruelty, and promotion of animal welfare. In addition, the Animal Welfare Advisory Group (AWAG) has been established since 1996 to advise DAFC on animal welfare and related matters, including keeping under review animal-related legislation, regulation and control of the pet trade, public education and publicity programmes, etc. Appointments to AWAG are made by the Secretary for Food and Health. The membership of AWAG comprises representatives from a wide spectrum of fields including veterinary science, animal welfare and management, the pet trade as well as other professional fields. The current framework has served the purpose of achieving our policy objectives well. The Government has no plan to change it.

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