

立法會 *Legislative Council*

LC Paper No. CB(2)347/16-17(02)

Ref : CB2/SS/1/16

Subcommittee on Public Health (Animals and Birds) (Animal Traders) (Amendment) Regulation 2016 (Commencement) Notice

Information note prepared by the Legislative Council Secretariat

The Public Health (Animals and Birds) (Animal Traders) (Amendment) Regulation 2016 (L.N. 64 of 2016) ("Amendment Regulation"), which was published in the Gazette on 20 May 2016 and tabled before the Fifth Legislative Council ("LegCo") on 25 May 2016, amends the Public Health (Animals and Birds) (Animal Traders) Regulations (Cap. 139B) in order to strengthen the regulation of animal trading and dog breeding activities through licensing arrangements. Salient amendments include:

- (a) revising the licensing scheme such that any person who sells, or offers to sell, dogs must obtain an Animal Trader Licence ("ATL") or a one-off permit, whereas any person who keeps for breeding and sells, or offers to sell, a dog, must obtain a dog breeder licence, viz. a dog breeder licence (category A) ("DBLA")¹ or a dog breeder licence (category B) ("DBLB")²;
- (b) revising the maximum penalty for any person who sells, or keeps for breeding and sells, a dog without a licence or a one-off permit to a fine at level 6 (i.e. \$100,000), and the maximum penalty for contravention of a condition attached to a licence or permit to a fine at level 5 (i.e. \$50,000);
- (c) stipulating that the Director of Agriculture, Fisheries and Conservation ("DAFC") may refuse to grant or renew, or may cancel, a licence if he is not satisfied that the applicant or licensee is a suitable person to carry out the regulated activity;

¹ A DBLA is for any individual who keeps four or fewer female dogs for breeding purposes at one premises, and sells, or offers to sell, those breeding dams or their offspring.

² A DBLB is for any person who keeps a number of female dogs for breeding purposes up to the limit provided for in the licence at one premises, and sells, or offers to sell, those breeding dams, their offspring or dogs from other approved sources.

- (d) empowering DAFC to exempt a person from the requirement to obtain an ATL if DAFC is satisfied that the person is conducting genuine rehoming activities for animal welfare purposes on a non-profit-making basis; and
- (e) prohibiting the sale of dogs by a licensee or permit holder to a person under the age of 16, and the maximum penalty for contravention is a fine at level 5 (i.e. \$50,000).

2. A Subcommittee was formed in the Fifth LegCo to scrutinize the Amendment Regulation. Members may refer to the Subcommittee's report (LC Paper No. CB(2)1804/15-16) for details of its deliberations. In the course of discussion, members of the Subcommittee had been informed that the Amendment Regulation would come into operation on a day to be appointed by the Secretary for Food and Health by notice published in the Gazette. While the Subcommittee had not explicitly discussed the commencement of the Amendment Regulation, some members had expressed concern that the Amendment Regulation might produce an unintended effect of legalizing private breeding of dogs. These members were strongly of the view that pet trading should be prohibited in Hong Kong, and the Administration should work towards "zero trading" of animals (paragraph 12 of the Subcommittee's report refers).

3. In addition, during the debate on a motion moved by the Chairman of the Subcommittee at the Council meeting commencing on 22 June 2016 to extend the scrutiny period of the Amendment Regulation to the Council meeting of 13 July 2016³, some Members had expressed the wish that the Amendment Regulation should be repealed or withdrawn by the Administration. A Member's proposed resolutions to repeal and/or amend the Amendment Regulation were put on the Agenda of the Council meeting of 13 July 2016 but were not reached before the Fifth LegCo stood prorogued.

4. To bring the Amendment Regulation into operation, the Secretary for Food and Health has published in the Gazette on 25 November 2016 the Public Health (Animals and Birds) (Animal Traders) (Amendment) Regulation 2016 (Commencement) Notice (L.N. 176 of 2016) to appoint 20 March 2017 as the day on which the Amendment Regulation is to come into operation.

Council Business Division 2
Legislative Council Secretariat
8 December 2016

³ The Amendment Regulation was subject to the negative vetting procedure, the scrutiny period of which was extended by resolution to the Council meeting of 13 July 2016.