

RABIES ORDINANCE

(Cap. 421)

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PART I

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Section 1

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An Ordinance to provide for the prevention and control of rabies and for related matters.

[1 July 1994] *L.N. 385 of 1994*

PART I

PRELIMINARY

1. Short title

- (1) This Ordinance may be cited as the Rabies Ordinance.
- (2) *(Omitted as spent)*

2. Interpretation

(For the saving and transitional provisions relating to the amendments made by the Resolution of the Legislative Council (L.N. 130 of 2007), see paragraph (12) of that Resolution.)

In this Ordinance, unless the context otherwise requires—

“animal” (動物) means an animal listed in Part I of Schedule 1;

“animal product” (動物產品) means any part or derivative of an animal listed in Schedule 2;

“Appeal Board” (上訴委員會) means an Appeal Board established by section 42;

“authorized officer” (特准人員) means a person authorized by the Director under section 5;

“carcass” (動物屍體) means the whole or any part of a carcass listed in Schedule 3;

“Chairman” (主席) means the Chairman of an Appeal Board;

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“Director” (署長) means the Director of Agriculture, Fisheries and Conservation, the Deputy Director of Agriculture, Fisheries and Conservation or an Assistant Director of Agriculture, Fisheries and Conservation; (*Amended L.N. 331 of 1999*)

“domestic premises” (住宅樓宇) means a building or part of a building used wholly or principally for dwelling purposes and constituting a separate household unit;

“infectious article” (傳染性物品) means an article by means of which rabies is likely to be carried or transmitted;

“keeper” (畜養人) in relation to an animal means a person who—

- (a) owns the animal or has it in his possession or custody; or
- (b) harbours the animal; or
- (c) occupies land or premises on which the animal is usually kept or permitted to remain; or
- (d) is the parent or guardian of a person under the age of 16 years who is the keeper of the animal pursuant to paragraph (a), (b) or (c) of this definition,

but does not include a person who has seized or taken possession or custody of an animal under this Ordinance or who has possession or custody of an animal for the purpose of examining or vaccinating it in accordance with this Ordinance;

“observation centre” (觀察中心) means a place declared by the Director under section 34 to be an observation centre;

“operator” (操作員), in relation to a conveyance, means the person having for the time being command or charge of it;

“owner” (擁有人) in relation to a conveyance means—

- (a) the person registered or licensed as owner thereof; or
- (b) where the conveyance is the subject of a hiring or chartering agreement, the hirer or charterer thereof; or

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(c) in the absence of registration, or licensing and a chartering or hiring agreement, the person owning the conveyance;

“Panel” (上訴委員團) means the Appeal Board Panel established by section 41;

“Part II animal” (第II部動物) means an animal listed in Part II of Schedule 1;

“place prohibited to animals” (禁止動物進入的地方) means a place declared by the Chief Executive under section 31 to be a place prohibited to animals; (*Amended 65 of 1999 s. 3*)

“prohibited animal” (違禁動物) means an animal listed in Schedule 4;

“quarantine centre” (檢疫中心) means a place declared by the Director under section 34 to be a quarantine centre;

“rabies control area” (狂犬病控制區) means an area declared by the Director under section 27 to be a rabies control area;

“regulations” (規例) means regulations made under section 29 or 51;

“Secretary” (局長) means the Secretary for Food and Health. (*Replaced 78 of 1999 s. 7. Amended L.N. 106 of 2002; L.N. 130 of 2007*)

3. Powers of Director

The Director may exercise any of the powers or perform any of the duties conferred or imposed on an authorized officer under this Ordinance.

4. Protected wild animals

This Ordinance does not apply to a protected wild animal (as defined in the Wild Animals Protection Ordinance (Cap. 170)) living naturally in a wild state in Hong Kong.

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PART II

AUTHORIZED OFFICERS

5. **Appointment of authorized officers**

The Director may in writing authorize any person to exercise any of the powers or perform any of the duties conferred or imposed on an authorized officer under this Ordinance.

6. **Power to destroy animals**

An authorized officer may destroy any animal that he has reasonable grounds to believe—

- (a) is a prohibited animal;
- (b) is or could be rabid; or
- (c) has been in contact with a rabid animal.

7. **Power to seize and detain or destroy animals**

(1) An authorized officer may seize and detain any animal—

- (a) that is in a place prohibited to animals in contravention of section 32;
- (b) that is a Part II animal and is in a public place or place from which it may reasonably be expected to wander into a public place, without being on a leash or otherwise under control in contravention of section 23(1);
- (c) that is not being controlled or restrained in accordance with a direction issued under section 19;
- (d) that he has reasonable grounds to believe—

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- (i) has not been vaccinated against rabies as required by the regulations;
 - (ii) has not been licensed as required by the regulations or pursuant to section 21;
 - (iii) has been abandoned;
 - (iv) has bitten any person;
 - (v) has been imported into Hong Kong in contravention of the regulations;
- (e) in relation to which he has reasonable grounds to believe an offence against this Ordinance has been committed.
- (2) Where an authorized officer is empowered by subsection (1) to seize and detain an animal but it is not reasonably practicable to do so he may instead destroy it.
- (3) An authorized officer may destroy an animal seized under subsection (1) where he has reasonable grounds to believe its detention under this Ordinance is likely to adversely affect the health of any other animal similarly detained.
- (4) Notwithstanding subsection (1) an authorized officer shall not seize and detain an animal that has been produced to him for vaccination against rabies on the ground only that he believes that it has not been so vaccinated.

8. Power to seize and sterilize or destroy thing

- (1) An authorized officer may seize any animal product, carcass or article used for or in connection with any animal, that he has reasonable grounds to believe—
- (a) is likely to cause rabies to be introduced into or spread within Hong Kong;
 - (b) in the case of an animal product or carcass, has been imported in contravention of the regulations; or

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- (c) is or contains evidence of an offence under this Ordinance.
- (2) An authorized officer may treat or sterilize anything seized under subsection (1) to free it from rabies.
- (3) An authorized officer may forthwith destroy anything seized under subsection (1) where—
 - (a) the thing seized is of a perishable nature;
 - (b) it is not reasonably practicable to treat or sterilize it; or
 - (c) he is of the opinion that no purpose would be served by its treatment or sterilization having regard to the likelihood of any person wishing to claim it.
- (4) Where any animal product, carcass or article is seized and treated or sterilized or destroyed under this section, the reasonable costs of the seizure, treatment, sterilization or destruction may be recovered by the Government from the owner as a civil debt in any court of competent jurisdiction.

9. Power to examine and vaccinate

For the purposes of preventing or controlling the spread of rabies an authorized officer may—

- (a) examine any animal, animal product, carcass, or infectious article; and
- (b) vaccinate against rabies any animal that he has reasonable grounds to believe has not been so vaccinated as required by the regulations.

10. Power of enter and search

Subject to section 12, where an authorized officer reasonably suspects the presence in or on any land, premises or conveyance of an animal liable to be destroyed under section 6 or liable to be seized and detained or destroyed under section 7 or of any thing

liable to be seized and treated or sterilized or destroyed under section 8 he may, with or without assistants, enter such land or premises or board such conveyance and search for such animal or thing.

11. Powers of entry-ancillary provisions

- (1) In exercising any power of entry under section 10 or 12 an authorized officer may use such force as is reasonably necessary—
 - (a) to enter any land or premises or board any conveyance; or
 - (b) to remove any person or thing obstructing the entry, boarding or search.
- (2) An authorized officer who enters any land or premises or boards any conveyance under section 10 or 12 shall, if so requested, produce written evidence of his identity and of his authorization under section 5.

12. Entry of domestic premises

- (1) Subject to subsection (2), sections 10 and 13 do not authorize any person without the permission of the occupier or person appearing to him to be in charge of the premises, to enter domestic premises unless a magistrate has issued a warrant authorizing him to enter the premises under subsection (3).
- (2) In a case of urgency, where a warrant cannot be obtained under subsection (3) without affording an opportunity for the animal liable to be seized or destroyed under this Ordinance to escape or to be removed from the premises or in the case of any thing liable to be seized, treated, sterilized or destroyed under this Ordinance without affording an opportunity for such thing to be removed from the premises, an authorized

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officer may, with or without assistants, enter such premises and search for such animal or thing.

- (3) A magistrate may, if satisfied by information on oath that there is a reasonable ground for suspecting the presence of any animal liable to be seized, detained or destroyed under this Ordinance or of any thing liable to be seized, treated, sterilized or destroyed under this Ordinance in any domestic premises, issue a warrant authorizing an authorized officer to enter and search the premises.
- (4) The power of entry conferred by a warrant issued under subsection (3) may be exercised by the person on whom it is conferred either alone or together with other persons.
- (5) Notwithstanding any other provision of this section an authorized officer may not, without the permission of the occupier or person appearing to him to be in charge of the premises, enter domestic premises unless he is accompanied by a police officer.

13. Power to give directions

- (1) An authorized officer may give directions in writing to—
 - (a) the owner or occupier of any land or premises or the owner or operator of a conveyance, in or on which there is any animal, animal product, carcass or infectious article, to produce such animal, animal product, carcass or infectious article for examination or deliver it for examination to a place specified by the authorized officer;
 - (b) the owner or occupier of any land or premises or the owner or operator of a conveyance, in or on which an animal is present, to confine the animal to the land, premises or conveyance or a part of it, in such manner and for such period as he considers necessary;

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- (c) the keeper or importer of any animal to deliver the animal for detention in a quarantine centre, observation centre or other specified place for a period that he specifies in the direction;
 - (d) the owner or occupier of any land or premises, or the owner or operator of a conveyance, in or on which there has been a rabid animal or an animal that he reasonably suspects may be a rabid animal, or any animal product, carcass or infectious article, to take such reasonable measures with respect to the land, premises or conveyance to prevent the spread or perpetuation of rabies as the authorized officer considers necessary.
- (2) Where any person fails to comply, within a reasonable time, with a direction given to him under subsection (1) an authorized officer may, on production of written evidence of his identity and of his authorization under section 5 if so requested,—
 - (a) in the case of a direction given under subsection (1)(a) seize the animal, animal product, carcass or infectious article and either examine it there or remove it to the place specified in the direction for examination;
 - (b) in the case of a direction given under subsection (1)(b) or (c) seize the animal and remove it to a quarantine centre, observation centre or other place of detention for such period as he considers necessary;
 - (c) in the case of a direction given under subsection (1)(d) undertake such measures as may be necessary to prevent the spread or perpetuation of rabies as are specified in the direction.
- (3) Subject to section 12, in the exercise of his powers under subsection (2) an authorized officer may at all reasonable

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times with or without assistants enter any land or premises or board any conveyance.

- (4) Where an authorized officer exercises any power under subsection (2) the reasonable costs of any seizure, removal or other measures taken shall be recoverable by the Government as a civil debt from the owner or occupier of the land or premises or the keeper of the animal as the case may be in any court of competent jurisdiction.
- (5) A person who without reasonable excuse fails to comply with a direction given to him under subsection (1) commits an offence and is liable to a fine of \$10,000.

14. Power to require name, address, etc.

- (1) For the purposes of carrying out his functions under this Ordinance an authorized officer may, upon production of written evidence of his identity and of his authorization under section 5, if so requested, require any person—
 - (a) to declare immediately his name and address; and
 - (b) to produce for inspection documentary evidence of his identity.
- (2) If a requirement is made of a person under subsection (1) and the person—
 - (a) refuses to declare his name and address or fails to declare his true name and address; or
 - (b) without reasonable cause fails to produce or permit to be inspected documentary evidence of his identity; or
 - (c) in purported compliance with the requirement produces any document which he knows to be false in a material particular, or recklessly produces such a document or produces a document with intent to mislead,

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he commits an offence and is liable to a fine of \$10,000 and to imprisonment for 6 months.

15. Power to require information or production of documents, etc.

- (1) An authorized officer may, on production of written evidence of his identity and of his authorization under section 5, if so requested, require a person to—
 - (a) inform him of the kind and description of any animal of which he is the keeper and of any identifying markings on that animal;
 - (b) produce for inspection any collar, tag, permit, certificate, licence or other document or give such other information as he may specify, relating to an animal of which he is the keeper; or
 - (c) produce any permit, certificate, licence or other document or give such other information as he may specify, relating to any animal product, carcass or infectious article that he has in his possession or under his control.
- (2) Any person who without reasonable excuse fails to comply with a requirement made of him under subsection (1)(a) or who in purported compliance with the requirement gives any information which he knows to be false in a material particular commits an offence and is liable to a fine of \$10,000 and to imprisonment for 6 months.
- (3) Any person who without reasonable excuse fails to comply with a requirement made of him under subsection (1)(b) or (c) or who in purported compliance with the requirement produces any document which he knows to be false in a material particular or recklessly produces such a document or produces any article or document with intent to mislead

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commits an offence and is liable to a fine of \$10,000 and to imprisonment for 6 months.

16. Powers of police officers

A police officer may exercise the powers conferred on an authorized officer under sections 6, 7, 10, 14 and 15.

17. Power of arrest

- (1) An authorized officer, being an officer of the Agriculture, Fisheries and Conservation Department of the rank of Field Officer II or above, may arrest— (*Amended L.N. 331 of 1999*)
 - (a) any person whom he has reasonable grounds to believe has committed an offence under section 13, 14 or 15; and
 - (b) any person resisting or obstructing him in exercising any power or performing any duty under this Ordinance.
- (2) Where an authorized officer arrests a person under subsection (1) he shall forthwith take the person to the officer in charge of a police station and thereafter section 52 of the Police Force Ordinance (Cap. 232) shall apply.

18. No liability for exercise of functions bona fide and without negligence

- (1) No liability is incurred by the Director or an authorized officer in respect of anything done or omitted to be done by him bona fide and without negligence in the exercise or purported exercise of a power, or the performance or purported performance of a duty under this Ordinance.
- (2) No liability is incurred by a person in respect of anything done by him bona fide and without negligence in compliance

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with a direction given to him under or purportedly under this Ordinance.

PART III
ANIMAL CONTROL

19. Direction to control or restrain animal and assist seizure

- (1) An authorized officer may in writing direct the keeper of any animal to take the measures that he specifies in the direction, to control or restrain the animal.
- (2) An authorized officer may in writing direct an owner or occupier of any land or premises or the owner or operator of a conveyance to give all reasonable assistance for the purpose of seizing an animal liable to seizure under this Ordinance that is in or on the land, premises or conveyance.
- (3) A person who without reasonable excuse contravenes a direction given under subsection (1) or (2) commits an offence and is liable to a fine of \$10,000.

20. Feeding of animals

- (1) The Director may for the purpose of discouraging the congregation of animals at any place, by notice published in the Gazette prohibit the feeding of animals by persons who are not the keepers of such animals, at such place as he may specify in the notice.
- (2) The Director shall erect a notice or notices at every place specified under subsection (1) indicating that the feeding of any animal at that place by a person other than the keeper of the animal is prohibited.
- (3) A person who feeds an animal, other than an animal of which he is the keeper, in contravention of a prohibition imposed under subsection (1) commits an offence and is liable to a fine of \$5,000.

21. Licensing of animals

- (1) The Director may, by notice published in the Gazette, prohibit the keeping of any class, genus or species of animal specified in the notice except under and in accordance with a licence issued by an authorized officer.
- (2) A licence under subsection (1) may be issued subject to such reasonable conditions as the Director considers necessary for the purpose of preventing or controlling the spread of rabies.
- (3) Where an animal is not licensed as required by a notice under subsection (1) the keeper of the animal shall be guilty of an offence and liable to a fine of \$10,000 and to imprisonment for 6 months.
- (4) Where a licence has been issued pursuant to subsection (1) any licensee who fails to comply with any condition of such licence commits an offence and is liable to a fine of \$10,000.

22. Abandonment of animals

- (1) A keeper of any animal who, without reasonable excuse, abandons that animal commits an offence and is liable to a fine of \$10,000 and to imprisonment for 6 months.
- (2) Where an animal is without reasonable excuse abandoned from a conveyance the owner and the operator of the conveyance shall each be guilty of an offence and liable to a fine of \$5,000 and to imprisonment for 3 months.
- (3) It is a defence to a charge against the owner of a conveyance under subsection (2) (read with subsection (1)) for the owner to prove that at the time of the abandonment of the animal the conveyance had been taken away without his consent.
- (4) It is a defence to a charge against the operator of a conveyance under subsection (2) (read with subsection (1)) for the operator to prove that the abandonment of the animal

was due to some cause beyond his control and that he took all reasonable measures to prevent the abandonment of the animal.

- (5) In any proceedings for an offence under this section where an animal has been seized and detained under section 7 and no person has within 96 hours after such seizure notified the Director, an authorized officer or a police officer that he is the keeper of the animal, it shall be presumed until the contrary is proved, that the animal was abandoned.

23. Part II animals to be kept under control

- (1) Unless it is on a leash or is otherwise under control, no Part II animal shall be in—
 - (a) a public place; or
 - (b) any place from which it may reasonably be expected to wander into a public place if it is not on a leash or otherwise under control.
- (2) Where a Part II animal is found in any place in contravention of subsection (1) the keeper of the animal and any person who caused, suffered or permitted the animal to be in that place shall each be guilty of an offence and liable to a fine of \$10,000.
- (3) It is a defence to a charge alleging a contravention of subsection (1) for the person charged to prove that he took all reasonable measures to prevent the contravention.

24. Bites by animals

- (1) The keeper of an animal that has bitten a person shall—
 - (a) give notice of that fact to the nearest police station without delay; and

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- (b) detain the animal securely, in isolation from other animals, for such period as may be specified by the officer in charge of the police station.
- (2) A person who contravenes subsection (1) commits an offence and is liable to a fine of \$10,000.

25. Bites by Part II animals

- (1) Where a Part II animal that is in any place in contravention of section 23 bites a person (other than the animal's keeper) the keeper shall be guilty of an offence and liable to a fine of \$10,000.
 - (2) It is a defence to a charge alleging a contravention of subsection (1) for the keeper to prove that—
 - (a) he took all reasonable measures to prevent the animal from biting; or
 - (b) the animal was wilfully provoked by someone other than himself.
-

PART IV

RABIES

26. Duty to report rabies

- (1) A person who knows or who may reasonably suspect that an animal is rabid or has been in contact with a rabid animal shall, without delay, give notice of that fact to an authorized officer.
- (2) A keeper of an animal that is rabid or that he may reasonably suspect is rabid or has been in contact with a rabid animal shall, as far as is practicable, detain the animal securely, in isolation from other animals.
- (3) The owner or occupier of land or premises or the owner or operator of any conveyance in or on which there is a dead animal that was rabid or that he may reasonably suspect was rabid at the time of its death, shall—
 - (a) without delay, give notice of that fact to an authorized officer; and
 - (b) as far as is practicable, isolate the carcass so as to prevent animals coming in contact with it.
- (4) A person who without reasonable excuse contravenes this section commits an offence and is liable to a fine of \$10,000.

27. Rabies control areas

The Director may, by notice published in the Gazette, declare as a rabies control area any area in which—

- (a) rabies exists;
- (b) he reasonably suspects that rabies exists; or

- (c) he reasonably suspects there is a danger of an outbreak of rabies.

28. Director may impose controls on movement and gatherings of animals

- (1) For the purposes of this Ordinance, the Director may, by notice published in the Gazette, impose controls or prohibitions with respect to a rabies control area on—
 - (a) the movement of any animal, animal product, carcass or infectious article within, into or out of the rabies control area; and
 - (b) the gathering of animals within the rabies control area (including gatherings of animals at animal shows, exhibitions, competitions or sales).
- (2) A person who moves or causes, suffers or permits to be moved any animal, animal product, carcass or infectious article, or causes, suffers or permits a gathering of animals, in contravention of a control or prohibition imposed under subsection (1) commits an offence and is liable to a fine of \$50,000 and to imprisonment for 1 year.

29. Regulations relating to rabies control areas

(Adaptation amendments retroactively made - see 65 of 1999 s. 3)

- (1) The Chief Executive in Council may make regulations with respect to rabies control areas to provide for— (*Amended 65 of 1999 s. 3*)
 - (a) the quarantine of animals and things;
 - (b) the control or prohibition of the movement of animals or things within, into or out of rabies control areas;
 - (c) the vaccination of animals against rabies;
 - (d) the disinfection or treatment of animals and things;

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- (e) the seizing and detaining of animals and things in respect of which any contravention of the regulations has been committed;
 - (f) the reporting of births and deaths of animals specified in the regulations;
 - (g) the keeping of animals under proper control;
 - (h) the disposal of carcasses; and
 - (i) any matters associated with or connected with the matters specified in paragraphs (a) to (h).
- (2) Regulations made under this section may—
- (a) authorize an authorized officer or police officer to give directions relating to the confinement, exercising or movement of animals within rabies control areas;
 - (b) provide that a contravention of any such direction shall be an offence;
 - (c) provide for an appeal to be made to the Appeal Board against any specified decision or action taken by the Director or an authorized officer under the regulations;
 - (d) authorize the Director to declare the date of the coming into operation and the period of operation of any such regulations or part thereof, and to discontinue the operation of any such regulations or part thereof.
- (3) The Director may in writing in such cases as he thinks fit and for such period and subject to such conditions as he specifies exempt any person or class of persons from the application of any regulations made under this section where he is satisfied that public or animal health will not be endangered because of such exemption.

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- (4) Notice of any exemption granted under subsection (3) may be published in the Gazette.
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PART V
PROHIBITED ANIMALS

30. Importation or possession of prohibited animals

- (1) A person who—
- (a) imports or causes, suffers or permits to be imported into Hong Kong; or
 - (b) keeps,
- any prohibited animal commits an offence and is liable to a fine of \$50,000 and to imprisonment for 1 year.
- (2) Where subsection (1) is contravened the owner and the operator of any conveyance in or on which the prohibited animal was imported into Hong Kong shall each be guilty of an offence and liable to a fine of \$25,000 and to imprisonment for 6 months.
- (3) It is a defence to a charge brought under subsection (2) (read with subsection (1)) for an owner or operator to prove that he took all reasonable measures to prevent the contravention of subsection (1).
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PART VI

PLACES PROHIBITED TO ANIMALS

31. Declaration of place prohibited to animals

(Adaptation amendments retroactively made - see 65 of 1999 s. 3)

- (1) The Chief Executive may, by order published in the Gazette, declare any place to be a place prohibited to animals.
(Amended 65 of 1999 s. 3)
- (2) The Director shall erect or place at every place declared to be a place prohibited to animals under subsection (1) a notice or notices indicating that, except under and in accordance with a permit, it is an offence to cause, suffer or permit an animal to enter or remain in such place.

32. Animals entering or remaining in places prohibited to animals

- (1) Except under and in accordance with a permit granted under subsection (2), a person who causes, suffers or permits an animal to enter or remain in a place prohibited to animals commits an offence and is liable to a fine of \$10,000 and to imprisonment for 6 months.
- (2) An authorized officer may permit a person to bring an animal into a place prohibited to animals for such period and subject to such conditions as he considers appropriate.

PART VII**DETENTION OF ANIMALS AND THINGS****33. Restricted application of this Part**

Sections 37, 38 and 39 shall not apply in respect of a quarantine centre or observation centre maintained under and in accordance with a licence granted under the regulations.

34. Quarantine and observation centres

The Director may by notice published in the Gazette declare any place to be a quarantine centre or an observation centre for the purposes of this Ordinance.

35. Detention of animals and things

Where an animal or thing is seized under section 7 or 8 it shall, unless it is destroyed under those sections, be detained in such quarantine centre, observation centre or other place as an authorized officer may specify, for such period as he shall direct to be necessary in all the circumstances.

36. Power to vary period of detention

- (1) Where an animal has been directed to undergo detention in a quarantine centre, observation centre or other place for a specified period an authorized officer may increase or reduce such period as he considers fit.
- (2) Where a period of detention has been increased or reduced by an authorized officer under subsection (1) he shall forthwith notify the keeper, or in the case of an animal detained upon its importation into Hong Kong the importer, of the animal concerned of such increase or reduction, unless such person is

unknown to or cannot readily be found or ascertained by the authorized officer, or is absent from Hong Kong.

Fees and charges

37. Detention fees

- (1) The fees payable (including any fee estimated under subsection (2)) in respect of the detention of any animal under this Ordinance shall be payable by the keeper of the animal or in the case of an animal detained upon its importation into Hong Kong the importer of the animal, on demand being made to him by an authorized officer.
- (2) Where the length of any period of detention of an animal under this Ordinance is uncertain an authorized officer may estimate the amount of the prescribed fee and demand payment of such estimated fee.
- (3) Where the amount of an estimated fee paid in respect of any period of detention under this Ordinance exceeds the amount of the prescribed fee payable in respect of such detention or where subsequent to the payment of any estimated fee under this section it is determined that no prescribed fee is payable in respect of the detention, the amount of such excess or the amount of the estimated fee paid, as the case may be, shall be refunded.

38. Removal from detention, forfeiture, etc.

- (1) No person may remove an animal or thing from a quarantine centre, observation centre or other place in which it has been detained under this Ordinance except with the permission of an authorized officer and upon payment of the fees prescribed in respect of such detention.
- (2) Subject to subsection (3), where—

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- (a) an animal or thing detained under this Ordinance is not removed from a quarantine centre, observation centre or other place—
 - (i) in the case of an animal, by its keeper or in the case of an animal detained upon its importation into Hong Kong, by its keeper or importer; or
 - (ii) in the case of a thing, by the owner of the thing, within 3 days after the expiry of a period of detention ordered or specified therefor;
- (b) the fees payable in respect of any detention under this Ordinance are not paid within 7 days after demand therefor has been made; or
- (c) the owner of a thing or the keeper, or in the case of an animal detained upon its importation into Hong Kong the keeper or importer, of an animal which is detained under this Ordinance cannot after reasonable inquiry be found or ascertained within 4 days after the commencement of such detention,

the Director may order the forfeiture of the animal or thing, in which case he may either retain it or cause it to be sold, destroyed or otherwise disposed of as he considers appropriate.

- (3) The Director shall serve a notice on the keeper or importer of the animal or the owner of the thing as the case may require notifying him of his intention to order the forfeiture of such animal or thing before he makes the order of forfeiture unless such keeper or importer or owner is unknown to or cannot be readily found or ascertained by the Director or is absent from Hong Kong.
- (4) Where any animal or thing is sold or otherwise transferred pursuant to this section the purchaser or transferee thereof shall acquire a good title.

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- (5) Where an animal or thing is sold pursuant to this section the Director shall as soon as is reasonably practicable after the sale serve a notice on the keeper or importer of the animal or the owner of the thing as the case may require notifying him—
- (a) that the animal or thing has been sold;
 - (b) of the date of the sale;
 - (c) of the amount of the fees payable in respect of the detention of the animal or thing;
 - (d) of the expenses of the sale; and
 - (e) that unless he makes a demand for the proceeds of the sale (after deducting the fees payable in respect of the detention and the expenses of the sale) within 1 month after the date of the service on him of the notice the proceeds of the sale shall be paid into the general revenue,
- unless such keeper or importer or owner is unknown to or cannot be readily found or ascertained by the Director or is absent from Hong Kong.
- (6) The proceeds of such sale, after deducting the fees payable in respect of the detention and the expenses of the sale, shall be paid on demand to the keeper or importer of the animal or the owner of the thing as the case may require if such demand is made—
- (a) where a notice has been served under subsection (5), within 1 month after the date of such service;
 - (b) where a notice has not been served under subsection (5), within 1 month after the date of the sale.
- (7) Where the demand in subsection (6) is not made within 1 month after the date of the service of the notice under

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subsection (5) or the date of the sale, as the case may be, the proceeds of the sale shall be paid into the general revenue.

- (8) A person who contravenes subsection (1) commits an offence and is liable to a fine of \$10,000 and to imprisonment for 6 months.

39. Liability for fees and charges

The keeper or in the case of an animal detained upon its importation into Hong Kong the importer of an animal detained in a quarantine centre, observation centre or other place shall be liable for all fees and charges in respect of the animal including charges for transport to or from the centre or other place and for any inspection and treatment.

PART VIII

APPEALS

40. Appeal

- (1) Any person aggrieved by—
- (a) a direction given to him by an authorized officer under section 13 or 19;
 - (b) the length of any period for which any animal of which he is the keeper or importer, is directed to be detained by an authorized officer under section 13(1)(c) or 35;
 - (c) the refusal of an authorized officer to permit an animal of which he is the keeper or importer, to be removed from a quarantine centre, observation centre or other place in which it has been detained;
 - (d) an increase in a specified period of detention in respect of an animal of which he is the keeper or importer, made by an authorized officer under section 36;
 - (e) any condition imposed by the Director in granting him an exemption under section 47;
 - (f) any decision of the Director concerning his entitlement to compensation under section 49;
 - (g) the amount of compensation payable under section 49 as determined by the Director,

may within 30 days of the notification to him of such direction, refusal, increase, condition, decision or determination appeal to the Appeal Board by notice of appeal addressed to the Director, in a form and manner specified by the Director, setting out the grounds of the appeal.

- (2) After receiving a notice of appeal under subsection (1) the Director shall, within 14 days after such receipt, forward it to the Secretary.
- (3) An appeal made under this section shall not affect the operation of the direction, refusal, increase or condition appealed against prior to the determination of the appeal.

41. Appeal Board Panel

- (1) There shall be a panel to be known as the Appeal Board Panel.
- (2) The Panel shall consist of the following persons appointed by the Secretary—
 - (a) not more than 6 medical practitioners (referred to in this Part as the medical members); and
 - (b) not more than 6 veterinary surgeons (referred to in this Part as the veterinary members).
- (3) A public officer is not eligible for appointment to the Panel.
- (4) Subject to subsection (5) a member of the Panel shall be appointed for a period of 2 years and shall, on ceasing to be a member, be eligible for reappointment.
- (5) A member of the Panel may at any time, by notice in writing to the Secretary, resign from the Panel.
- (6) In subsection (2)(b) “veterinary surgeon” (獸醫) means a registered veterinary surgeon within the meaning of the Veterinary Surgeons Registration Ordinance (Cap. 529).
(Replaced 96 of 1997 s. 44)

42. Appeal Board

- (1) The Secretary shall, not later than 21 days after receipt of the notice of appeal under section 40(2), appoint an Appeal Board to determine the appeal.

- (2) The Appeal Board shall consist of 1 public officer, 1 medical member and 1 veterinary member.
- (3) The members of the Appeal Board shall elect a Chairman from amongst themselves to preside at the hearing of the appeal.
- (4) The members of the Appeal Board, other than the public officer, shall be remunerated for their services out of money appropriated for the purpose by the Legislative Council at such rate as the Financial Secretary may determine.

43. Proceedings before the Appeal Board

- (1) The Chairman of the Appeal Board shall notify the appellant of the time and place of the hearing of the appeal.
- (2) The parties to an appeal may be present at the hearing of the appeal and make representations either in person or by counsel or solicitor or, with the consent of the Appeal Board, by some other person.
- (3) A counsel, solicitor or legal officer within the meaning of the Legal Officers Ordinance (Cap. 87) may be present at any hearing to advise the Chairman on any legal matter.

44. Powers of Appeal Board and Chairman

(Adaptation amendments retroactively made - see 25 of 1998 s. 2)

- (1) For the purpose of hearing an appeal to which this Ordinance applies the Appeal Board may—
 - (a) receive and consider such evidence as it considers relevant whether or not it would be admissible in evidence in a court of law;
 - (b) require evidence to be given on oath or affirmation and orally or in writing;
 - (c) by notice in writing signed by the Chairman and served on the person to whom it is addressed, require that

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- person to attend and give evidence at the hearing of the appeal, and to produce such record, document or other thing in that person's custody or under his control relating to the subject matter of the appeal as may be specified in the notice;
- (d) require such person to answer all questions put to him by or with the consent of the Appeal Board;
 - (e) exercise such other powers as may be necessary or ancillary to the carrying out of its functions under this Ordinance.
- (2) Subject to any regulations referred to in section 51(1)(u) the Appeal Board may determine the procedure for the hearing of appeals.
- (3) The Appeal Board and its members, and witnesses, counsel and any solicitor, and any other person who is a party to or who otherwise has an interest in the proceedings shall have the same privileges and immunities in respect of the hearing of an appeal under this Part as they would have in proceedings before the Court of First Instance. (*Amended 25 of 1998 s. 2*)
- (4) Any person who refuses or fails—
- (a) to take any oath or make an affirmation when required to do so by the Appeal Board;
 - (b) to attend and give evidence when required to do so by the Appeal Board;
 - (c) to produce any record, document or other thing he is required by the Appeal Board to produce;
 - (d) to answer truthfully and fully questions put to him by or with the consent of the Appeal Board,
- commits an offence and is liable to a fine of \$5,000.

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- (5) The Chairman at the hearing of the appeal may administer an oath or affirmation to any person.

45. Decision of Appeal Board

- (1) The Appeal Board may confirm, vary or reverse or revoke the direction, refusal, increase, condition, decision or determination against which the appeal is made.
 - (2) The decision of the Appeal Board shall be final and shall not be subject to appeal.
-

PART IX

MISCELLANEOUS

46. Proof of vaccination

- (1) Where the keeper of an animal is unable to produce evidence of the vaccination of that animal against rabies the animal shall be deemed, until the contrary is proved, not to be so vaccinated.
- (2) In any proceedings under this Ordinance, the burden of proof that an animal has been duly vaccinated against rabies shall be on the keeper of the animal.

47. Exemptions

- (1) The Director may exempt a person or class of persons or an animal or class, genus or species of animal from the application of any or all of the provisions of this Ordinance generally or for any purpose or by reference to any circumstances, where he is satisfied that public or animal health will not be endangered by such exemption.
- (2) An exemption under subsection (1) may be granted subject to such conditions as the Director considers necessary to ensure that public or animal health is not endangered.
- (3) Notice of any exemption granted under subsection (1) may be published in the Gazette.
- (4) A person who, without reasonable excuse, contravenes a condition of an exemption granted under subsection (1) commits an offence and is liable to a fine of \$10,000.

48. Amendment of Schedules

(Adaptation amendments retroactively made - see 65 of 1999 s. 3)

The Chief Executive may by order published in the Gazette amend the Schedules.

(Amended 65 of 1999 s. 3)

49. Compensation

- (1) Subject to subsection (2) where an animal has been destroyed under this Ordinance and it is established to the satisfaction of the Director that the animal was not affected with rabies at the date of its destruction, there shall be payable in respect of such animal out of money appropriated by the Legislative Council for the purpose, to the keeper of the animal compensation equal to the market value of the animal immediately before it was destroyed as determined by the Director.
- (2) No compensation is payable under this section where the keeper of the animal concerned has with respect to the animal—
 - (a) failed to comply with any provision of this Ordinance;
 - (b) failed to comply with any direction or requirement given to or imposed on him by the Director or an authorized officer pursuant to this Ordinance; or
 - (c) caused, suffered or permitted any contravention of this Ordinance,prior to its destruction.
- (3) No compensation is payable by the Government in respect of the seizure, detention or forfeiture of an animal or thing under this Ordinance.

50. Giving of directions, etc.

A direction, requirement or notice that is to be given to or imposed on a person in writing under this Ordinance may be given or

imposed by—

- (a) delivering it personally to the person; or
- (b) leaving it, or sending it by post in a letter addressed to the person at his usual or last known place of residence.

51. Regulations

(Adaptation amendments retroactively made - see 65 of 1999 s. 3)

- (1) The Chief Executive in Council may make regulations with respect to— (*Amended 65 of 1999 s. 3*)
- (a) the control or prohibition of the possession, keeping, import, export or movement within Hong Kong, of animals, animal products and carcasses;
 - (b) the control or prohibition of the transshipment or removal of animals, animal products and carcasses from any conveyance arriving in Hong Kong and the keeping of the same while in transit in Hong Kong;
 - (c) the duties and obligations of keepers of animals including the prescription of minimum standards for the care and accommodation of animals;
 - (d) the keeping of animals under proper control;
 - (e) the identification of animals, by tattooing, certificate, the wearing of tags, or otherwise;
 - (f) the establishment and operation of quarantine centres;
 - (g) the detention of animals in quarantine centres under a system of quarantine;
 - (h) the establishment and operation of detention places and observation centres for the detention and observation of animals;
 - (i) the examination, testing, disinfection and treatment of animals;

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- (j) the vaccination of animals against rabies and the identification, by tattooing, certificate, the wearing of tags, or otherwise, of animals that have been vaccinated against rabies;
- (k) the control or prohibition of shows, exhibitions, competitions, sales and other gatherings of animals;
- (l) the control of the sale of animals;
- (m) the control of animal boarding establishments and pet shops;
- (n) the control of the bringing of animals into public places;
- (o) the measures to be taken in the event of an outbreak of rabies within Hong Kong or outside Hong Kong, for the purpose of preventing the introduction of rabies into Hong Kong or preventing or controlling the spread of rabies within Hong Kong or outside Hong Kong;
- (p) the confining of animals to any land or premises;
- (q) the seizure, detention, forfeiture, destruction or other disposal of animals, animal products, carcasses, infectious articles and other things;
- (r) the cleansing and disinfection of places used by rabid or suspected rabid animals and persons and things which may have come in contact with rabid or suspected rabid animals;
- (s) the measures to be taken to secure the payment of fees and charges in respect of animals detained under this Ordinance including the payment of deposits or the execution of bonds;
- (t) the recovery by the Government or by any authority of expenses incurred in enforcing or otherwise in connection with the regulations;

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- (u) appeals under section 40, and the practice and procedure of the Appeal Board;
 - (v) such other requirements for the purpose of eradicating or preventing the spread of rabies, as the Chief Executive in Council considers necessary; and (*Amended 65 of 1999 s. 3*)
 - (w) any matters associated with or connected with the matters specified in paragraphs (a) to (v).
- (2) Regulations made under this section may—
- (a) authorize the stopping of a conveyance by an authorized officer for the purposes of the regulations;
 - (b) provide that the owner of any land, premises or conveyance or the operator of any conveyance may be held to be vicariously liable for contraventions of the regulations;
 - (c) provide that the contravention of a term or condition of a licence or permit issued under the regulations constitutes an offence;
 - (d) provide that the burden of proof of any fact in any particular case shall lie upon the person charged;
 - (e) empower the Director to—
 - (i) amend any Schedule to the regulations;
 - (ii) attach to any licence or permit issued by him under this Ordinance or the regulations such reasonable conditions as appear to him to be necessary for regulating the activity in question;
 - (iii) require by notice published in the Gazette any class, genus or species of animal to be vaccinated against rabies;

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- (iv) issue directions regarding the vaccination of animals as required under the regulations;
 - (v) prescribe markings, collars, tags and certificates in respect of the vaccination of animals;
 - (vi) issue directions regarding the removal of animals and things from Hong Kong as required by the regulations;
 - (vii) specify the form of applications, licences and permits required to be used under the regulations;
 - (f) provide for an appeal to be made to the Appeal Board against any specified decision or action taken by the Director or an authorized officer under the regulations;
 - (g) prescribe penalties for an offence not exceeding \$50,000 and imprisonment for 1 year.
- (3) The Director may in writing, in such cases as he thinks fit and for such period and subject to such conditions as he specifies, exempt any person or class of persons from the application of any regulations made under this section where he is satisfied that public or animal health will not be endangered by such exemption.
- (4) Notice of any exemption granted under subsection (3) may be published in the Gazette.

52. Transitional

Where immediately before the date of the commencement of this Ordinance a dog or cat is detained under the Dogs and Cats Ordinance (Cap. 167) the provisions of that Ordinance in force at that date relating to the detention shall continue to apply thereto as if this Ordinance had not been enacted.

53-57. *(Omitted as spent)*

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SCHEDULE 1—PART I

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SCHEDULE 1

[s. 2]

ANIMALS

PART I

All members of the class Mammalia (mammals), except human beings.

PART II

Dogs.

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SCHEDULE 2

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Section 1

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SCHEDULE 2

[s. 2]

ANIMAL PRODUCTS

Parts or derivatives of the following—

1. A dog.
 2. A cat.
 3. Any animal that has been infected with rabies.
-

SCHEDULE 3

[s. 2]

CARCASSES

1. The carcass of a dog.
 2. The carcass of a cat.
 3. The carcass of any animal that has died on the journey to Hong Kong.
 4. The undressed carcass of any animal.
-

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SCHEDULE 4

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SCHEDULE 4

[s. 2]

PROHIBITED ANIMALS

All species of the family Desmodontidae (vampire bats).