

## **Consultation Document on Legislative Amendment of Cap. 374**

### **Purpose**

1. This paper outlines the Government's proposal to require drivers to stop in case of road accidents which cause injury to a dog or a cat. Legislative amendments to section 56(4) of the Road Traffic Ordinance (Chapter 374) (the Ordinance) will be required to implement the proposal.
2. Views from the public are invited on the proposal contained in this consultation document.

### **Background**

3. At present, section 56(1) provides that a driver of a vehicle shall stop if an accident involving that vehicle occurs whereby damage is caused to, amongst others, an animal other than an animal in or on that vehicle or a trailer drawn thereby. Section 56(2) further stipulates that the driver of the vehicle shall, if required, give to any police officer or any person having reasonable grounds for requiring the following particulars -
  - (a) his name and address;
  - (b) the name and address of the owner of the vehicle; and
  - (c) the registration or identification mark or number of the vehicle.
4. Section 56(2A) provides that if the driver for any reason does not give the particulars mentioned above, the driver must report the accident in person at the nearest police station or to any police officer as soon as reasonably practicable, and in any case not later than 24 hours after the accident.
5. A person who contravenes the above provisions commits an offence and is liable to a fine and imprisonment, i.e. contravention of section 56(1) is liable to a fine of \$10,000 and to imprisonment for 12 months whereas that of section 56(2) or 56(2A) is liable to a fine of \$15,000 and to imprisonment for 6 months. Under Section 56(4), "animal" is defined as any horse, cattle, ass, mule, sheep, pig or goat.

## **Justifications**

6. The number of dogs and cats kept by the public has been increasing in recent years. Concomitant with the increase, the risk of these pets going astray and getting injured in traffic incidents has also gone up. Reports have been found in the press and on social media regarding incidents where dogs and cats have been hit by a vehicle, causing their injuries or even deaths. Public concern about animal welfare and health has been raised for cases in which the vehicle driver did not stop after the incident and left the scene without letting the animals receive attention.
7. As section 56 of the Ordinance does not cover dogs and cats, drivers are not legally required to stop when they hit such animals. This potentially means that a driver may leave an injured dog or cat on the road after a traffic accident which may seriously affect the animal's health and welfare. Animal welfare organisations (AWOs) and stakeholders concerned thus have suggested the Government should amend the legislation by extending the coverage of section 56 to cover dogs and cats. AWOs also believe such requirement will help reduce the number of such accidents as drivers will become more alert to animals in the vicinity.
8. The above proposal is not meant to put the onus only on drivers. Under existing law, dog keepers have the responsibility of taking proper control of their dogs. Section 23 of the Rabies Ordinance (Cap. 421) requires the keeper of a dog to keep it on a leash or otherwise under control at all times when in a public place (or any place from which it may be reasonably expected to wander into a public place). Contravention of this section is liable on conviction to a maximum fine of \$10,000.
9. Apart from the above, the Government also noted that there was opinion that wild animals, such as monkeys, and wild pigs, should also be included in the legislation concerned to step up protection on them. Although the legislative intent of section 56(1)(b)(ii) of the Ordinance was to protect the interests of livestock owners, and that wild animals are not owned specifically by any individual and their inclusion under the Ordinance might be out of context, the Government is open to this proposal and would take into account the comments received from this consultation exercise when making the final legislative proposal.

## **Existing mechanism for handling traffic accidents involving animals and overseas practices**

10. If a member of the public reports an animal injury in a road accident to the Police, the Police will conduct investigation into the accident and seek assistance from the Society for Prevention of Cruelty to Animals (Hong Kong) or the Agriculture, Fisheries and Conservation Department (AFCD) for handling the animal and providing veterinary care. If an animal is found dead at the scene of the accident, the Food and Environmental Hygiene Department will be informed and collect the carcass for disposal.
  
11. We have researched into the practices and related legislation in other highly urbanised places as Hong Kong, namely Singapore, the United Kingdom (UK), Australia, New Zealand, and California and New York, the United States (US). It is noted that, similar to Hong Kong, the UK, New York and Singapore have legislation regarding the duty of a driver to stop when hitting an animal and give their particulars if required by a police officer or any person having reasonable grounds to require such information. While those in Singapore and the UK cover dogs, among others, the relevant legislative provision in New York covers both dogs and cats. The legislative provisions in Australia (except South Australia), New Zealand and California require a driver to notify the police department if their vehicle is involved in an accident resulting in damage to any property including any animal in the charge of any person. Having regard to the international trend, we see merits to update the Ordinance by bringing dogs and cats under the coverage of section 56 thereof.

## **Proposal**

12. It is proposed that dogs and cats shall be included in the definition of animal in section 56 of the Ordinance.

## **Invitation of comment**

13. Comments are invited on the proposed legislative amendment in paragraph 12 above and whether wild animals, such as monkeys and wild pigs, shall also be included in the definition of animal in section 56 of the Ordinance. Please send your comments by post, facsimile or email on or before 30 September 2018.

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14. It is voluntary for any member of the public to supply his/her personal data upon providing views on the consultation document. Any personal data provided with a submission will only be used for this consultation exercise. The submissions and personal data collected may be transferred to the relevant Government bureaux, departments or agencies for purposes directly related to this consultation exercise. The relevant parties receiving the data are bound by such purposes in their subsequent use of such data.
15. The names and views of individuals and organisations which put forth submissions in response to the consultation document (senders) may be published for public viewing after conclusion of the consultation exercise. AFCD may, either in discussion with others or in any subsequent report, whether privately or publicly, attribute comments submitted in response to the consultation document. We will respect the wish of senders to remain anonymous and / or keep the views confidential in relation to all or part of a submission; but **if no such wish is indicated, it will be assumed that the sender can be named and his/her views be published for public information.**
16. Any sender providing personal data to AFCD in the submission will have the right of access and correction with respect to such personal data. Any request for data access or correction of personal data should be made in writing to the contact specified in paragraph 13 above.

**Food and Health Bureau**  
**Agriculture, Fisheries and Conservation Department**  
**June 2018**