

**立法會**  
**Legislative Council**

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**Legal Service Division Report on  
Subsidiary Legislation Gazetted on 27 April 2009**

**Date of tabling in LegCo** : 29 April 2009

**Amendment to be made by** : 27 May 2009 (or 17 June 2009 if extended by resolution)

**Prevention and Control of Disease Ordinance (14 of 2008)**

**Prevention and Control of Disease (Amendment) Regulation 2009 (L.N. 71)**

**Prevention and Control of Disease Ordinance (Amendment of Schedule 1) (No. 2) Notice 2009 (L.N. 72)**

The Prevention and Control of Disease (Amendment) Regulation 2009 (the Amendment Regulation) is made by the Secretary for Food and Health under section 7 of the Prevention and Control of Disease Ordinance (14 of 2008) (the Ordinance). The Prevention and Control of Disease Ordinance (Amendment of Schedule 1) (No.2) Notice 2009 (the Notice) is made by the Director of Health under section 15 of the Ordinance.

2. The Ordinance and its subsidiary legislation provide a legislative framework for the prevention and control of communicable diseases that pose public health risks in Hong Kong. Section 4 of the Prevention and Control of Disease Regulation (L.N. 159 of 2008) (the Regulation) requires medical practitioners to notify the Director of Health if they have reason to suspect the existence of any of the infectious diseases specified in Schedule 1 to the Ordinance (the Schedule) in a form specified by the Director. Failure to comply with the requirement is an offence under the Regulation. At present, there are 47 infectious diseases listed in the Schedule. The Notice adds "Swine Influenza" to the list of infectious diseases in the Schedule.

3. Part 12 (sections 56 to 59) of the Regulation provides for control measures in respect of specified diseases (defined in section 56 to include Severe Acute Respiratory Syndrome, Influenza A (H2, H5, H7 and H9) and extensively drug-resistant tuberculosis), namely -

- (a) persons prohibited from leaving Hong Kong without written permission of health officers (section 57);

- (b) power to stop and detain persons seeking to leave Hong Kong in contravention of section 57(3) (section 58); and
- (c) measuring temperature of travellers (section 59).

The Amendment Regulation adds "Swine Influenza" to the list of specified diseases set out in section 56 of the Regulation so that it will also be subject to those control measures.

4. According to the Administration, swine influenza is a respiratory disease of pigs caused by type A influenza virus that regularly causes outbreaks of influenza in pigs. Person-to-person transmissions of a new strain of swine influenza A (H1N1) virus infection have been observed in Mexico and the United States and human cases of this virus infection have been identified in April 2009 in Mexico, the United States and Canada. However, it is not known how easily this virus spreads between people. Importation of this infection could result in local outbreaks. According to the World Health Organization (WHO), in Mexico, as of April 24, there were more than 854 cases of pneumonia from the capital. Of those, 59 have died. Investigation into these cases by WHO and national health authorities is ongoing. Owing to the occurrence of human cases associated with an animal influenza virus, the multiple community outbreaks, and unusual age groups (i.e. healthy young adults) affected, WHO considered these events are of international concern and has recommended all countries to intensify surveillance activities.

5. Members may refer to the LegCo Brief issued by the Food and Health Bureau in April 2009 for background information. According to paragraph 12 of the LegCo Brief, in view of the latest development and the pandemic potential of the new strain of swine influenza, members of the public and health professionals are expected to welcome the proposal which would strengthen the Administration's capability to prevent introduction of and spread of the disease in Hong Kong. According to paragraph 13 of the LegCo Brief, the Centre for Health Protection of the Department of Health has informed medical practitioners in Hong Kong of the requirement to notify the Director of cases of swine influenza.

6. The Amendment Regulation and the Notice have come into operation on the date it was published in the Gazette, i.e. 27 April 2009.

7. At the joint meeting of the Panel on Health Services and the Panel on Food Safety and Environmental Hygiene held on 2 May 2009, some members asked the Administration whether it would change "Swine Influenza" as added to section 56 of the Regulation and the Schedule to "Influenza A (H1N1)" used by WHO when referring to the new virus affecting humans. The Administration replied that it would not consider doing so for the time being, as "Swine Influenza" had been widely used by local and overseas media and health authorities to refer to the new virus affecting humans prior to 30 April 2009. Moreover, the term

"Influenza A (H1N1)" might still be subject to change later by WHO, as there were differing views among experts on the appropriateness of the term when referring to the new virus affecting humans.

8. No difficulties relating to the legal and drafting aspects of the above items of subsidiary legislation have been identified.

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