

LEGISLATIVE COUNCIL BRIEF

Quarantine and Prevention of Disease Ordinance (Chapter 141)

PREVENTION OF THE SPREAD OF INFECTIOUS DISEASES (AMENDMENT) REGULATION 2003

INTRODUCTION

At the meeting of the Executive Council on 15 April 2003, the Council ADVISED and the Chief Executive ORDERED that the Prevention of the Spread of Infectious Diseases (Amendment) Regulation 2003 at Annex A should be made.

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BACKGROUND

2. The Quarantine and Prevention of Disease Ordinance and its subsidiary legislation provide a legislative framework for the quarantine and prevention of communicable diseases of public health importance. A recent phenomenon of a new infectious illness, recognised as the Severe Acute Respiratory Syndrome (the Syndrome), has made a significant impact on the local community and other places worldwide. The illness, with incubation period of typically two to seven days but can be as long as ten days, is likely to be caused by a new type of virus and the mode of transmission is mainly through droplet spread and/or direct contact with secretions.

3. On 27 March 2003, the Director of Health made the Quarantine and Prevention of Disease Ordinance (Amendment of First Schedule) Order 2003 and the Prevention of the Spread of Infectious Diseases Regulations (Amendment of Form) Order 2003 in order to include the Syndrome as one of the infectious diseases to which the provisions of the Ordinance and its subsidiary legislation apply.

JUSTIFICATIONS

4. The number of people infected with the Syndrome is increasing. As of 16 April 2003, an additional 36 patients were confirmed to have been infected with the Syndrome, bringing the cumulative number of locally reported confirmed cases since 12 March 2003 to 1,268. The

international community has expressed grave concern over our local situation, and some overseas countries are worried that the Syndrome would spread to their communities through international travel. The World Health Organization recommended on 2 April 2003 that persons traveling to Hong Kong, amongst other places, consider postponing all but essential travel. A few countries have gone further and imposed temporary travel restrictions on Hong Kong residents. As a logistic hub of the region and a cosmopolitan city with a comprehensive air services network with other parts of the world, we need to reassure the international community that effective measures are in place to prevent the spread of the Syndrome across borders.

5. We have reviewed the Prevention of the Spread of Infectious Diseases Regulations (Cap. 141B) (the PSID Regulations) to ascertain if amendments are required to enable us to implement further precautionary measures to control the spread of the Syndrome. At present, regulation 10 of the PSID Regulations empowers a health officer to remove any sick person, contact or carrier to an infectious diseases hospital or such other place as he may appoint. Regulation 12 of the PSID Regulations stipulates that this person shall be detained there until he is no longer infectious. These provisions have the implicit effect of prohibiting persons subject to detention at an infectious diseases hospital or other place appointed by a health officer from leaving Hong Kong. To enable health officers to prohibit the departure from Hong Kong of other persons who are not subject to detention but have been exposed to the risk of infection of the Syndrome, we propose to provide such power to a health officer by amending the PSID Regulations.

6. Meanwhile, regulation 9 of the PSID Regulations provides that a health officer may carry out a medical examination on, and for that purpose detain, any person whom he has reason to believe is a sick person, contact or carrier. Given that measuring the body temperature of arriving/departing passengers could be an additional precautionary measure to control the spread of the Syndrome, we propose to amend the PSID Regulations to confer such powers on persons authorised by the Director of Health. Moreover, we also propose to empower health officers or authorized medical practitioners to carry out medical examination on persons arriving in or leaving Hong Kong for the purpose of ascertaining whether they are likely to be infected with the Syndrome.

7. In sum, the proposed amendments will provide statutory powers for the health officers to restrict specified persons from leaving Hong Kong, and for authorized persons, health officers or authorized medical practitioners, as appropriate, to measure the body temperature or carry out medical examination on any persons arriving in or departing

Hong Kong for the purpose of ascertaining whether he is likely to be infected with the Syndrome. Such powers will be invoked by the Director of Health as and when necessary. Members will be kept informed of developments.

THE AMENDMENT REGULATION

8. The main provisions are -

- (a) Regulation 27A empowers a health officer to make a written direction prohibiting a person from leaving Hong Kong without the written permission of a health officer, if a health officer has reason to believe or suspect that the person is suffering from Severe Acute Respiratory Syndrome or has been exposed to the risk of infection of that disease by contact with a person suffering from that disease or is a carrier of that disease.
- (b) Regulation 27B empowers certain public officers to stop and detain a person seeking to leave Hong Kong in contravention of a health officer's direction.
- (c) Regulation 27C empowers an authorized person to take the body temperature of a person arriving in or leaving Hong Kong, and empowers a health officer or an authorized medical practitioner to carry out a medical examination on a person arriving in or leaving Hong Kong for the purpose of ascertaining whether the person is likely to be infected with Severe Acute Respiratory Syndrome.
- (d) Regulation 27D provides that Part VIA is in addition to and not in derogation from other provisions of the PSID Regulations.

LEGISLATIVE TIMETABLE

9. The legislative timetable is as follows –

Publication in the Gazette	17 April 2003
Tabling at Legislative Council	30 April 2003

Given the need to introduce additional precautionary measures, the Amendment Regulation will come into force upon gazettal to provide the legal basis for these measures.

IMPLICATIONS OF THE PROPOSAL

B 10. The proposal has economic, sustainability, financial and civil service implications as set out at Annex B. The proposal is in conformity with the Basic Law, including the provisions concerning human rights. It has no productivity or environmental implications.

PUBLIC CONSULTATION

11. We have consulted the Airport Authority and airlines on the proposal to require all persons leaving Hong Kong to take body temperature. They have shown support to the proposed requirement and pledged to provide assistance in carrying out the scheme at the airport. However, they would prefer the requirement to be provided in legislation.

PUBLICITY

12. A press release will be issued on 16 April 2003. In addition to hosting a press conference to answer media and public enquiries, we shall brief the consular corps on these legislative amendments and the latest developments in combating the Syndrome.

OTHERS

13. For any enquiries on this brief, please contact Miss Noel TSANG, Assistant Secretary for Health, Welfare and Food at 2973 8118.

Health, Welfare and Food Bureau
16 April 2003

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**PREVENTION OF THE SPREAD OF INFECTIOUS
DISEASES (AMENDMENT) REGULATION 2003**

(Made by the Chief Executive in Council under section 8 of the
Quarantine and Prevention of Disease Ordinance (Cap. 141))

1. Detention of persons removed

Regulation 12 of the Prevention of the Spread of Infectious Diseases Regulations (Cap. 141 sub. leg. B) is amended by adding “, 27B(2) or 27C(4)” after “10”.

2. Entry to infectious diseases hospitals

Regulation 13 is amended –

- (a) by adding “, 27B(2) or 27C(4)” after “10”;
- (b) by repealing “such” where it first appears and substituting “a”.

3. Part VIA added

The following is added after regulation 27 –

“PART VIA

**RESTRICTION ON DEPARTURE FROM HONG KONG
AND MEDICAL EXAMINATION OF TRAVELLERS TO
PREVENT SPREAD OF SEVERE ACUTE
RESPIRATORY SYNDROME**

**27A. Persons restricted from leaving Hong
Kong without permission in writing of
health officer**

(1) Where a health officer has reason to believe or suspect that a person –

- (a) is suffering from Severe Acute Respiratory Syndrome;

(b) has been exposed to the risk of infection of Severe Acute Respiratory Syndrome by contact with a person suffering from that disease; or

(c) is a carrier of Severe Acute Respiratory Syndrome, the health officer may make a direction in writing prohibiting the person from leaving Hong Kong without the permission in writing of a health officer during a period specified in the direction.

(2) A health officer shall serve a copy of the direction on the subject of the direction, either personally or by post, but whether or not it is served, the direction comes into force immediately upon being made.

(3) The subject of a direction made under paragraph (1) may not leave Hong Kong without the permission in writing of a health officer during the period specified in the direction.

(4) A health officer may attach any conditions that he considers appropriate to any permission referred to in paragraph (3).

(5) A person who knowingly contravenes paragraph (3) or fails to comply with a condition attached under paragraph (4) commits an offence and is liable to a fine of \$5,000 and to imprisonment for 6 months.

**27B. Power to stop and detain persons
seeking to leave Hong Kong in
contravention of regulation 27A**

(1) Any –

(a) police officer or health officer;

(b) member of the Immigration Service, Auxiliary Medical Service or Civil Aid Service authorized by the Director of Health; or

(c) public officer authorized by the Director of Health, may stop and detain any person seeking to leave Hong Kong in contravention of regulation 27A.

(2) A person detained under paragraph (1) may be removed by any person referred to in subparagraph (a), (b) or (c) of that paragraph to an infectious diseases hospital or such other place as appointed by a health officer.

(3) An authorization under paragraph (1)(b) or (c) may be given by the Director of Health to a member of the Services referred to in paragraph (1)(b), or a public officer referred to in paragraph (1)(c), by rank or office as specified by the Director.

(4) A person who obstructs the exercise of a power under paragraph (2) by a person referred to in paragraph (1)(a), (b) or (c) commits an offence and is liable to a fine of \$5,000 and to imprisonment for 6 months.

**27C. Medical examination of persons
arriving in or leaving Hong Kong**

(1) Any person authorized by the Director of Health for the purposes of this paragraph may take the body temperature of any person arriving in Hong Kong or leaving Hong Kong.

(2) A health officer, or a medical practitioner authorized by the Director of Health for the purposes of this paragraph, may carry out a medical examination on, and for that purpose stop and detain, any person arriving in Hong Kong or leaving Hong Kong, for the purpose of ascertaining whether that person is likely to be infected with Severe Acute Respiratory Syndrome.

(3) Without limiting paragraphs (1) and (2), any person referred to in regulation 27B(1)(a), (b) or (c) may stop and detain any person arriving in Hong Kong or leaving Hong Kong, until –

- (a) the person's body temperature can be taken under paragraph (1); or
- (b) a medical examination can be carried out on the person under paragraph (2).

(4) If after a medical examination on a person under paragraph (2), the health officer or the medical practitioner referred to in that paragraph has reason to believe or suspect that the person is likely to be infected with Severe Acute Respiratory Syndrome, that person may be detained and removed by any person referred to in regulation 27B(1)(a), (b) or (c) to an infectious diseases hospital or such other place as appointed by a health officer.

(5) A person who obstructs the exercise of a power –

- (a) under paragraph (1) by an authorized person;
- (b) under paragraph (2) by a health officer or an authorized medical practitioner; or
- (c) under paragraph (3) or (4) by a person referred to in regulation 27B(1)(a), (b) or (c),

commits an offence and is liable to a fine of \$5,000 and to imprisonment for 6 months.

27D. This Part not to derogate from other provisions

This Part is in addition to and not in derogation from the other provisions of these regulations.”.

Clerk to the Executive Council

COUNCIL CHAMBER

2003

Explanatory Note

This Regulation amends the Prevention of the Spread of Infectious Diseases Regulations (Cap. 141 sub. leg. B) and empowers a health officer to make a written direction prohibiting a person from leaving Hong Kong without the written permission of a health officer, if a health officer has reason to believe or suspect that the person is suffering from Severe Acute Respiratory Syndrome or has been exposed to the risk of infection of that disease by contact with a person suffering from that disease or is a carrier of that disease.

2. It is an offence punishable with a fine of \$5,000 and imprisonment of 6 months for a person to leave Hong Kong in contravention of a direction made by a health officer.
3. The Regulation also empowers certain public officers to stop and detain a person seeking to leave Hong Kong in contravention of a health officer's direction.
4. Further, the Regulation empowers an authorized person to take the body temperature of a person arriving in or leaving Hong Kong, and empowers a health officer or an authorized medical practitioner to carry out a medical examination on a person arriving in or leaving Hong Kong for the purpose of ascertaining whether the person is likely to be infected with Severe Acute Respiratory Syndrome.

IMPLICATIONS OF THE PROPOSAL

Financial and Civil Service Implications

The Department of Health, the Hong Kong Police Force and the Immigration Department will absorb within their existing resources all the financial and staffing cost arising from the enforcement of Regulations 27A and 27B.

On the implementation of Regulation 27C, our current plan is to require all persons leaving Hong Kong by air to take body temperature. We will authorize members of the Auxiliary Medical Service to conduct temperature measurement by use of thermometer for the ear. The monthly staffing and equipment costs are \$721,500 and \$480,600 respectively.

Economic Implications

The measures on the passenger departure front will help assure overseas communities that we are taking responsible steps to curb any tendency for the Syndrome to spread out of Hong Kong. This should be seen positively by the international business community, against the current ebb in Hong Kong's international image which is affecting our external business links considerably as the Syndrome continues to spread within the local territory.

Sustainability Implications

The proposal should help control the spread of the disease across borders and contribute to the sustainability principle of providing an environment which protects people's health.