

立法會
Legislative Council

LC Paper No. LS68/19-20

**Paper for the House Committee Meeting
on 8 May 2020**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 28 April 2020**

Tabling in LegCo : Council meeting of 29 April 2020

Amendment to be made by : Council meeting of 27 May 2020 (or that of
17 June 2020 if extended by resolution)

**Prevention and Control of Disease Ordinance (Amendment
of Schedules 1 and 2) Notice 2020** (L.N. 46)

**Prevention and Control of Disease (Amendment) (No. 2)
Regulation 2020** (L.N. 47)

**Compulsory Quarantine of Certain Persons Arriving at
Hong Kong (Amendment) (No. 2) Regulation 2020** (L.N. 48)

**Prevention and Control of Disease (Disclosure of
Information) (Amendment) Regulation 2020** (L.N. 49)

**Compulsory Quarantine of Persons Arriving at Hong
Kong from Foreign Places (Amendment) Regulation 2020** (L.N. 50)

**Prevention and Control of Disease (Requirements and
Directions) (Business and Premises) (Amendment) (No. 2)
Regulation 2020** (L.N. 51)

**Prevention and Control of Disease (Prohibition on Group
Gathering) (Amendment) Regulation 2020** (L.N. 52)

L.N. 46

By the Prevention and Control of Disease Ordinance (Amendment of Schedule 1) Notice 2020 (L.N. 3 of 2020) gazetted on 8 January 2020, the Director of Health ("Director") amended Schedule 1 to the Prevention and Control of Disease Ordinance (Cap. 599) to add "severe respiratory disease associated with a novel infectious agent" ("Disease") as item 34AAA to the list of scheduled

infectious diseases.¹ On 11 February 2020, the World Health Organization announced the official name of the Disease as "coronavirus disease 2019 (COVID-19)" and that of the virus (i.e. an infectious agent) causing the Disease as "severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2)".²

2. L.N. 46 is made by the Director under section 15 of Cap. 599 to amend:

- (a) Schedule 1 to Cap. 599 by repealing "severe respiratory disease associated with a novel infectious agent" in item 34AAA of the list of scheduled infectious diseases and adding "coronavirus disease 2019 (COVID-19)" in the new item 8A; and
- (b) Schedule 2 to Cap. 599 by adding "severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2)" to the list of scheduled infectious agents under the new item 26A so that the handling of the virus SARS-CoV-2 by laboratories is subject to the control³ of the Prevention and Control of Disease Regulation (Cap. 599A).

L.N. 47

3. By the Prevention and Control of Disease (Amendment) Regulation 2020 (L.N. 4 of 2020), the Secretary for Food and Health ("the Secretary") added the Disease to the list of specified diseases in section 56 of Cap. 599A so that the control measures provided under Part 12 of Cap. 599A are applicable to travellers reasonably believed to be suffering from or to have been exposed to the risk of infection of the Disease. Following the making of L.N. 46, L.N. 47 is made by the Secretary under section 7 of Cap. 599⁴ to further amend section 56 of Cap. 599A to update the name of the Disease.

¹ Upon our previous enquiry in relation to L.N. 3 of 2020, the Administration has stated that once a specific infectious agent related to the Disease is identified, the name of the Disease in Schedule 1 will be revised and the identified infectious agent will be added to the list of scheduled infectious agents in Schedule 2 (LC Paper No. LS36/19-20 at paragraph 6).

² [https://www.who.int/emergencies/diseases/novel-coronavirus-2019/technical-guidance/naming-the-coronavirus-disease-\(covid-2019\)-and-the-virus-that-causes-it](https://www.who.int/emergencies/diseases/novel-coronavirus-2019/technical-guidance/naming-the-coronavirus-disease-(covid-2019)-and-the-virus-that-causes-it) [Accessed May 2020].

³ Part 8 of Cap. 599A sets out the requirements on the owner or the person in charge of a laboratory to surrender scheduled infectious agents under his control or possession for disposal by the Director under certain circumstances and to notify the Director immediately in case of any leakage of the scheduled infectious agents that may pose a public health risk. Failure to comply with any such requirement is an offence punishable by a fine at level 2 (i.e. \$5,000) and imprisonment for six months.

⁴ Section 7 of Cap. 599 empowers the Secretary to make regulations for the purpose of preventing the introduction into, the spread in and the transmission from, Hong Kong of any disease or contamination; and for the prevention of any disease.

L.N. 48 to L.N. 52

4. L.N. 48 to L.N. 52 are made by the Chief Executive ("CE") in Council under section 8 of Cap. 599⁵ having regard to the latest situation of public health emergency relating to the Disease.

L.N. 48

5. Under the Compulsory Quarantine of Certain Persons Arriving at Hong Kong Regulation (Cap. 599C),⁶ two categories of persons, namely, persons arriving at Hong Kong from Mainland, Macao or Taiwan; and persons arriving at Hong Kong from other places but having stayed in Mainland, Macao or Taiwan during the 14 days before the date of arrival, are placed under compulsory quarantine for 14 days beginning on the date of arrival.

6. L.N. 48 amends Cap. 599C to:

- (a) revise the definition of "public health emergency" and add a new definition of "specified disease" to reflect the change in the name of the Disease;
- (b) expand the Chief Secretary for Administration's power to grant exemption from the quarantine requirement in respect of persons:
 - (i) whose entry into Hong Kong is necessary for his or her receiving nursery, kindergarten, primary or secondary education at any school registered under the Education Ordinance (Cap. 279) in Hong Kong or for the provision of such education (new section 4(1)(a)(iv));
 - (ii) whose entry into Hong Kong is necessary for the safe travelling of any person for the purposes mentioned in item (i) above (new section 4(1)(a)(v)); and
 - (iii) whose travelling is necessary for purposes relating to manufacturing operations, business activities or the provision of professional services in the interest of Hong Kong's economic development (new section 4(1)(b));
- (c) empower a health officer to cancel a quarantine order made against a person arriving from the Mainland or Macao if the following conditions set out in the new section 10(1A) are met:

⁵ Under section 8 of Cap. 599, CE in Council may make regulations for the purposes of preventing, combating or alleviating the effects of a public health emergency and protecting public health on an occasion of a public health emergency.

⁶ As amended by the Compulsory Quarantine of Certain Persons Arriving at Hong Kong (Amendment) Regulation 2020 (L.N. 28 of 2020).

- (i) the person produces to the health officer a certificate issued by a public authority in the Mainland or Macao (as may be appropriate) specified by the Director certifying that the person completed, on the date of arrival at Hong Kong or the day before, a quarantine of not less than 14 days administered by the authority;
 - (ii) the person makes a declaration in a form specified by the Director to the health officer that the person has not been exposed, in a way specified in the form, to any risk of contracting the Disease after the completion of the quarantine; and
 - (iii) the health officer is satisfied on the basis of the result of a medical laboratory test conducted after the person's arrival, that the person is tested negative for the Disease; and
- (d) extend the expiry date of Cap. 599C from 7 May 2020 to 7 June 2020.

L.N. 49

7. The Prevention and Control of Disease (Disclosure of Information) Regulation (Cap. 599D) empowers a health officer to require a person to give any information that the health officer reasonably believes is within the knowledge, in the possession or under the control of the person, and is relevant to the handling of the public health emergency. L.N. 49 amends Cap. 599D to:

- (a) revise the definition of "disease" to update the name of the Disease; and
- (b) extend the expiry date of Cap. 599D from 7 May 2020 to 31 August 2020.

L.N. 50

8. The Compulsory Quarantine of Persons Arriving at Hong Kong from Foreign Places Regulation (Cap. 599E) imposes the quarantine requirement on persons arriving at Hong Kong from a specified place outside China or having stayed in such a place during the 14 days before the date of arrival. L.N. 50 amends Cap. 599E to update the references to the name of the Disease appearing in the definition of "public health emergency" (section 2) and in section 12(3)(a) of Cap. 599E which relates to the specification of a foreign place by the Secretary having regard to the extent of the spread of the Disease in that place.

L.N. 51

9. The Prevention and Control of Disease (Requirements and Directions) (Business and Premises) Regulation (Cap. 599F)⁷ imposes certain temporary requirements and directions in relation to catering business and certain premises (e.g. amusement game centres, fitness centres, karaoke establishments, beauty parlours, club-houses, nightclubs etc.). L.N. 51 amends the definition of "specified disease" in Cap. 599F to reflect the change in the name of the Disease.

L.N. 52

10. The Prevention and Control of Disease (Prohibition on Group Gathering) Regulation (Cap. 599G) prohibits a group gathering of more than four persons in any public places during a specified period. L.N. 52 amends Cap. 599G to:

- (a) revise the definition of "specified disease" to reflect the change in the name of the Disease; and
- (b) add a new definition of "Authority" and change the references to "the Director" in Schedule 2 to "Authority" so that, in addition to the Director of Health, the following public officers are empowered to perform certain functions in relation to the enforcement of a fixed penalty⁸ under Schedule 2:
 - (i) the Commissioner of Police;
 - (ii) the Director of Agriculture, Fisheries and Conservation;
 - (iii) the Director of Food and Environmental Hygiene;
 - (iv) the Director of Home Affairs;
 - (v) the Director of Housing; and
 - (vi) the Director of Leisure and Cultural Services.

Consultation

11. According to paragraph 30 of the Legislative Council Brief (File Ref: FHB/H/16/123) issued by the Food and Health Bureau in May 2020, the

⁷ As amended by the Prevention and Control of Disease (Requirements and Directions) (Business and Premises) (Amendment) Regulation 2020 (L.N. 33 of 2020).

⁸ These functions include serving a demand notice for failure to pay the fixed penalty and applying to a magistrate for rescission of an order for payment of fixed penalty (sections 4 and 13 of Schedule 2 to Cap. 599G).

Administration is of the view that given the exigency of the situation, public consultation is not feasible.

12. As advised by the Clerk to the Panel on Health Services, the Panel has not been consulted on L.N. 46 to L.N. 52.

Commencement

13. L.N. 46 to L.N. 52 came into operation on 29 April 2020.

Concluding observations

14. No difficulties have been identified in relation to the legal and drafting aspects of the above items of subsidiary legislation.

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