

**立法會**  
**Legislative Council**

LC Paper No. LS114/19-20

**Legal Service Division Report on  
Subsidiary Legislation Gazetted on 22 July 2020**

<b>Tabling in LegCo</b>	: Council meeting of 14 October 2020
<b>Amendment to be made by</b>	: Council meeting of 11 November 2020 (or that of 2 December 2020 if extended by resolution)
<b>Compulsory Quarantine of Certain Persons Arriving at Hong Kong (Amendment) (No. 5) Regulation 2020</b>	<b>(L.N. 144)</b>
<b>Prevention and Control of Disease (Disclosure of Information) (Amendment) (No. 2) Regulation 2020</b>	<b>(L.N. 145)</b>
<b>Compulsory Quarantine of Persons Arriving at Hong Kong from Foreign Places (Amendment) (No. 3) Regulation 2020</b>	<b>(L.N. 146)</b>
<b>Prevention and Control of Disease (Requirements and Directions) (Business and Premises) (Amendment) (No. 4) Regulation 2020</b>	<b>(L.N. 147)</b>
<b>Prevention and Control of Disease (Prohibition on Group Gathering) (Amendment) (No. 8) Regulation 2020</b>	<b>(L.N. 148)</b>
<b>Prevention and Control of Disease (Wearing of Mask) (Public Transport) (Amendment) Regulation 2020</b>	<b>(L.N. 149)</b>

L.N. 144 to L.N. 149 are made by the Chief Executive in Council under section 8 of the Prevention and Control of Disease Ordinance (Cap. 599) with regard to the latest situation of public health emergency<sup>1</sup> relating to COVID-19.

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<sup>1</sup> Public health emergency is defined in section 8(5) of Cap. 599 to mean, among others, the occurrence of or the imminent threat of a disease, an epidemic or a pandemic that has a high probability of causing a large number of deaths in the population or a large number of serious disabilities (whether or not long-term) in the population.

L.N. 144 to L.N. 148

2. L.N. 144 to L.N. 148 extend the expiry dates of the following regulations respectively:

- (a) L.N. 144 extends the expiry date of the Compulsory Quarantine of Certain Persons Arriving at Hong Kong Regulation (Cap. 599C) from midnight on 7 August 2020 to midnight on 7 September 2020. In gist, Cap. 599C mainly provides for a temporary system of mandatory quarantine for persons arriving at Hong Kong (i) from any specified place in China (including the Mainland, Taiwan and Macao); and (ii) from other places but having stayed in the places in China referred to in (i) during the 14 days before the date of the person's arrival;
- (b) L.N. 145 extends the expiry date of the Prevention and Control of Disease (Disclosure of Information) Regulation (Cap. 599D) from midnight on 31 August 2020 to midnight on 31 December 2020. Cap. 599D mainly empowers a health officer<sup>2</sup> 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 concerning COVID-19;
- (c) L.N. 146 extends the expiry date of the Compulsory Quarantine of Persons Arriving at Hong Kong from Foreign Places Regulation (Cap. 599E) from midnight on 18 September 2020 to midnight on 31 December 2020. In gist, Cap. 599E mainly provides for a temporary system of compulsory quarantine for: (i) persons arriving at Hong Kong from any specified place outside China; and (ii) persons who have stayed in any specified place referred to in (i) for any period of time during the 14 days before the date of the person's arrival;
- (d) L.N. 147 extends the expiry date of the Prevention and Control of Disease (Requirements and Directions) (Business and Premises) Regulation (Cap. 599F) from midnight on 31 August 2020 to midnight on 31 December 2020. In gist, Cap. 599F mainly imposes certain requirements, and enables directions to be issued by the Secretary for Food and Health ("Secretary"), in respect of any catering business and certain scheduled premises (such as amusement game centres, bathhouses and fitness centres) relating to, among others, the sale or supply of food or drink for consumption on the premises of any catering business, and the closure of the relevant premises or part thereof; and

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<sup>2</sup> A health officer is defined in section 2 of Cap. 599 to mean the Director of Health, the Deputy Director of Health, the Controller of the Centre for Health Protection, or a medical practitioner appointed by the Director of Health as a health officer or port health officer.

- (e) L.N. 148 extends the expiry date of the Prevention and Control of Disease (Prohibition on Group Gathering) Regulation (Cap. 599G) from midnight on 31 August 2020 to midnight on 31 December 2020. Cap. 599G mainly prohibits group gathering of more than a certain number of persons<sup>3</sup> in any public place<sup>4</sup> during a period specified by the Secretary by notice published in the Gazette, and provides for certain exemptions.

Members may refer to LC Paper Nos. LS 43, 52, 55, 60, 62, 64, 68, 70, 81, 91, 101, 108 and 113/19-20 previously issued by the Legal Service Division ("LSD") for further details of Cap. 599C to Cap. 599G.

### L.N. 149

3. The Prevention and Control of Disease (Wearing of Mask) (Public Transport) Regulation (Cap. 599I) came into operation on 15 July 2020 and will expire at midnight on 14 October 2020. In gist, Cap. 599I mainly requires a person, subject to certain exceptions, to wear a mask (i.e. any covering over the nose and mouth to provide protection against infection or air pollution) at all times when the person is boarding or on board a public transport carrier (such as public buses, public light buses and ferries)<sup>5</sup> or is entering or present in an MTR paid area during a period specified by the Secretary ("Public Transport Requirement"). Any person who fails to comply with the Public Transport Requirement without any lawful authority or reasonable excuse commits an offence and is liable to a fine at level 2 (i.e. \$5,000).

4. L.N. 149 amends Cap. 599I mainly by:

- (a) adding a new section 5A to Cap. 599I to extend the scope of application of Cap. 599I to also require a person, subject to certain exceptions, to wear a mask at all times in any public place<sup>6</sup> specified by the Secretary ("Specified Public Place") and consequentially amending the title of Cap. 599I to the Prevention and Control of Disease (Wearing of Mask) Regulation;
- (b) providing that the requirement to wear a mask under section 5A ("section 5A requirement") does not apply where a person: (i) is under the age of two;

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<sup>3</sup> Under Cap. 599G as further amended by L.N. 151, subject to certain exemptions, the maximum number of persons permitted to gather in a public place is reduced from four to two with effect from 29 July 2020.

<sup>4</sup> The term "public place" is defined in section 2 of Cap. 599G to mean a place to which the public or a section of the public may or are permitted to have access from time to time, whether by payment or otherwise.

<sup>5</sup> Please refer to Schedule 1 to Cap. 599I for a list of the public transport carriers to which the requirement is applicable.

<sup>6</sup> "Public place" for the purposes of Cap. 599I is defined under L.N. 149 to mean any place to which for the time being the public or a section of the public may or are permitted to have access, whether on payment or otherwise, but does not include a public transport carrier or an MTR paid area.

(ii) has lawful authority or reasonable excuse for not wearing a mask ; and  
(iii) is participating in any court, statutory tribunal or statutory board proceedings and is directed or permitted by the court, tribunal or board not to wear a mask;

- (c) adding a new section 5B to Cap. 599I to empower certain authorized persons (such as a police officer, an authorized public officer, or the manager or owner of a Specified Public Place) to: (i) deny any person not wearing a mask entry to the place concerned, or (ii) require the person to wear a mask or to leave the place; and
- (d) empowering the Director of Health to appoint authorized public officers for enforcing Cap. 599I and providing for the powers of these officers.

5. L.N. 149 also provides for the offences and penalties for contravening certain requirements prescribed under Cap. 599I which are summarized below:

- (a) a person who contravenes the section 5A requirement commits an offence and is punishable by a fine at level 2 (i.e. \$5,000);
- (b) a person who, without reasonable excuse, delays, obstructs, hinders or molests an authorized public officer (or fails or refuses to comply with a requirement made by such officer) in the performance of the officer's function under Cap. 599I commits an offence and is punishable by a fine at level 3 (i.e. \$10,000); and
- (c) a fixed penalty regime is provided under the new sections 6A to 6E of and Schedule 2 to Cap. 599I for offences in contravention of the Public Transport Requirement and the new section 5A requirement ("Offences") with the effect that a person may discharge liability for any of the Offences by paying a fixed penalty of \$2,000.

*Government notice made by the Secretary*

6. By G.N. (E.) 88 of 2020 published in the Gazette on 22 July 2020, the Secretary has, pursuant to section 3(1) of Cap. 599I, specified that with effect from 23 July 2020, Cap. 599I is applicable to the following Specified Public Places:

- (a) public transport facilities designated as no smoking areas ("NSAs") as set out in the Schedule to the Smoking (Public Health) (Designation of No Smoking Areas) Notice (Cap. 371D);
- (b) bus interchanges and adjoining facilities designated as NSAs as set out in item 21 of Part 1 of Schedule 2 to the Smoking (Public Health) Ordinance (Cap. 371); and

- (c) all indoor public places not falling within paragraph 6(a) and (b) above, where indoor means:
- (i) having a ceiling or roof, or a cover that functions (whether temporarily or permanently) as a ceiling or roof; and
  - (ii) enclosed (whether temporarily or permanently), otherwise than by any window or door capable of being opened, or any opening that functions as such a window or door, at least 50% of the total area of all sides.

7. The Secretary has also specified in G.N. (E.) 88 of 2020 that the Public Transport Requirement and the section 5A requirement are effective for a period of 14 days from 23 July 2020 to 5 August 2020. Upon the commencement of G.N. (E.) 88 of 2020 on 23 July 2020, G.N. (E.) 81 of 2020 (published in the Gazette on 13 July 2020) relating to the implementation of the Public Transport Requirement has been suspended.

#### Consultation

8. As advised by the Clerk to the Panel on Health Services, the Panel has not been consulted on L.N. 144 to L.N. 149.

#### Commencement

9. L.N. 144 to L.N. 149 came into operation on 23 July 2020.

10. As of the date of this report, no LegCo Brief has been issued by the Administration.

#### Concluding observations

11. No difficulties have been identified in relation to the legal and drafting aspects of L.N. 144 to L.N. 148. LSD is studying the legal and drafting aspects of L.N. 149 and will report further, if necessary.

#### **Other matters**

12. Members may also wish to note that the Secretary has pursuant to section 5 of the Prevention and Control of Disease (Regulation of Cross-boundary Conveyances and Travellers) Regulation (Cap. 599H)<sup>7</sup> issued G.N. (E.) 87 of 2020 to specify:

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<sup>7</sup> Members may wish to refer to LC Paper No. LS 113/19-20 for further details of Cap. 599H.

- (a) a total of nine places to which Cap. 599H is applicable with the effect that from 29 July 2020 onwards, any aircraft or vessel from Kazakhstan or the United States of America arriving or about to arrive at Hong Kong is also subject to the regulatory measures provided under Cap. 599H in addition to any aircraft or vessel arriving, or about to arrive, at Hong Kong from the seven places<sup>8</sup> specified in the previously issued G.N. (E.) 83 of 2020, which has been suspended upon the commencement of G.N. (E.) 87 of 2020 on 29 July 2020; and
- (b) a set of conditions applicable in respect of a person who, on the day of boarding a civil aviation aircraft that arrives or is about to arrive at Hong Kong, or during the 14 days before that day, has stayed in any of the nine places mentioned in paragraph 12(a) above ("relevant traveller"). These conditions (details of which are set out in part (B) of G.N. (E.) 87 of 2020) include requiring a relevant traveller, before being checked-in for the flight to Hong Kong on that aircraft, to produce documentary proof on (i) a negative nucleic acid test result for COVID-19; and (ii) confirmation of at least 14 days' room reservation in a hotel in Hong Kong.

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LS/S/45/19-20

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<sup>8</sup> The other seven places are Bangladesh, India, Indonesia, Nepal, Pakistan, the Philippines and South Africa.