

**立法會**  
**Legislative Council**

LC Paper No. LS119/19-20

**Legal Service Division Report on  
Subsidiary Legislation Gazetted on 25 August 2020**

**Tabling in LegCo** : Council meeting of 14 October 2020

**Amendment to be made by** : Council meeting of 11 November 2020 (or that of 2 December 2020 if extended by resolution)

**Prevention and Control of Disease (Wearing of Mask)  
(Amendment) Regulation 2020 (L.N. 160)**

L.N. 160 is 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.

2. Section 5A(1) of the Prevention and Control of Disease (Wearing of Mask) Regulation (Cap. 599I) requires a person to wear a mask at all times in a specified public place during a specified period. Section 5A(2) and (3) of Cap. 599I provides for certain exceptions to the above requirement, such as where a person has a reasonable excuse for not wearing a mask. L.N. 160 amends section 5A of Cap. 599I to:

- (a) provide that a person has a reasonable excuse for not wearing masks if the person is engaged in any physical activity (including exercise) that may reasonably be regarded as strenuous for the person in a place that is not indoor; and
- (b) define "indoor" to mean (i) having a ceiling or roof, or a cover that functions (whether temporarily or permanently) as a ceiling or roof, and (ii) having at least 50% of the total area of all sides 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.

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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.

3. As of the date of this report, no Legislative Council Brief has been issued by the Administration on L.N. 160.
4. As advised by the Clerk to the Panel on Health Services, the Panel has not been consulted on L.N. 160.
5. L.N. 160 came into operation on 28 August 2020.
6. No difficulties have been identified in relation to the legal and drafting aspects of L.N. 160.

### **Other matters**

#### Government notices made by the Secretary for Food and Health under Cap. 599I

7. The Secretary for Food and Health ("Secretary") has, pursuant to section 3 of Cap. 599I, specified in G.N. (E.) 125 of 2020 published in the Gazette on 27 August 2020 that with effect from 28 August 2020, all public places as defined in section 2(1) of Cap. 599I<sup>2</sup>, save for any public places (other than indoor<sup>3</sup> public places) in any country parks and special areas as defined in section 2 of the Country Parks Ordinance (Cap. 208) ("Special Areas"), are specified public places to which the requirement to wear masks applies. G.N. (E.) 125 of 2020 replaces the specified public places originally specified in G.N. (E.) 93 of 2020 (i.e. all public places as defined in section 2(1) of Cap. 599I).<sup>4</sup> The effect is that the requirement to wear masks no longer applies to any public places (other than indoor public places) in any country parks and Special Areas with effect from 28 August 2020.

8. In addition, the Secretary has, pursuant to section 3 of Cap. 599I, specified in G.N. (E.) 129 of 2020 published in the Gazette on 2 September 2020 the period of seven days from 4 September 2020 to 10 September 2020 for the application of the requirement to wear masks in specified public places, public transport carriers and MTR paid areas. G.N. (E.) 129 of 2020 replaces the periods for the application of the requirement to wear masks specified in

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<sup>2</sup> "Public place" for the purposes of Cap. 599I is defined under section 2(1) of Cap. 599I 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.

<sup>3</sup> See the definition of "indoor" in paragraph 2(b) above.

<sup>4</sup> For the period from 29 July 2020 to 27 August 2020, the specified public places were all public places as defined in section 2(1) of Cap. 599I pursuant to G.N. (E.) 93 of 2020 published in the Gazette on 27 July 2020. Upon the commencement of G.N. (E.) 125 of 2020 on 28 August 2020, G.N. (E.) 93 of 2020 has been suspended.

previous notices made by the Secretary under Cap. 599I (i.e. G.N. (E.) 101 of 2020, G.N. (E.) 107 of 2020, G.N. (E.) 114 of 2020, G.N. (E.) 121 of 2020 and G.N. (E.) 125 of 2020 published in the Gazette on 3 August 2020, 10 August 2020, 17 August 2020, 25 August 2020 and 27 August 2020 respectively).<sup>5</sup>

Government notices made by the Secretary under the Prevention and Control of Disease (Requirements and Directions) (Business and Premises) Regulation (Cap. 599F)

9. Members may wish to note that the Secretary has, pursuant to Cap. 599F, issued various specifications and directions in relation to catering business<sup>6</sup> and scheduled premises<sup>7</sup>. The latest specification and directions made by the Secretary are summarized in paragraphs 10 to 11 below.

*Latest specification and directions in relation to catering business*

10. By G.N. (E.) 126 of 2020 published in the Gazette on 2 September 2020, the Secretary has specified and directed that for a period of seven days from 4 September 2020 to 10 September 2020, in respect of all catering businesses, except (i) those set out in Part 1 of Schedule 1 to Cap. 599F, or (ii) those designated by the Chief Secretary for Administration to be exempt from the directions made by the Secretary pursuant to section 7A(1) of Cap. 599F ("Specific Catering Businesses"), the selling or supplying of food or drink for consumption on the premises must be ceased from 10:00 p.m. to 4:59 a.m. of the subsequent day (including from 0:00 a.m. to 4:59 a.m. of 4 September 2020 and from 10:00 p.m. to 11:59 p.m. of 10 September 2020). Protective measures (e.g. wearing masks, body temperature screening and provision of hand sanitisers) are extended. Other restrictions, such as suspension of live performance, karaoke, and the closing of any premises or any

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<sup>5</sup> G.N. (E.) 101 of 2020, G.N. (E.) 107 of 2020, G.N. (E.) 114 of 2020 and G.N. (E.) 121 of 2020 specified various periods from 5 August 2020 to 27 August 2020 during which the wearing of mask is mandatory in all public places, public transport carriers and MTR paid areas. G.N. (E.) 125 of 2020 specified the period of seven days from 28 August 2020 to 3 September 2020 for the application of the requirement to wear masks in the specified public places as mentioned in paragraph 7 above, public transport carriers and MTR paid areas.

<sup>6</sup> G.N. (E.) 43, G.N. (E.) 49, G.N. (E.) 56, G.N. (E.) 62, G.N. (E.) 68, G.N. (E.) 75, G.N. (E.) 78, G.N. (E.) 84, G.N. (E.) 95, G.N. (E.) 98, G.N. (E.) 104, G.N. (E.) 111, G.N. (E.) 118 and G.N. (E.) 122 of 2020 published in the Gazette on 19 May, 26 May, 2 June, 16 June, 30 June, 9 July, 13 July, 20 July, 30 July, 3 August, 10 August, 17 August, 25 August and 27 August 2020 respectively.

<sup>7</sup> G.N. (E.) 44, G.N. (E.) 50, G.N. (E.) 57, G.N. (E.) 63, G.N. (E.) 69, G.N. (E.) 76, G.N. (E.) 79, G.N. (E.) 85, G.N. (E.) 91, G.N. (E.) 96, G.N. (E.) 99, G.N. (E.) 105, G.N. (E.) 112, G.N. (E.) 119 and G.N. (E.) 123 of 2020 published in the Gazette on 19 May, 26 May, 2 June, 16 June, 30 June, 9 July, 13 July, 20 July, 27 July, 30 July, 3 August, 10 August, 17 August, 25 August and 27 August 2020 respectively.

part of a catering premises exclusively or mainly used for the sale or supply of intoxicating liquors for consumption in the premises or any part of it, continue to be effective. G.N. (E.) 126 of 2020 replaces the specification and directions made by G.N. (E.) 122 of 2020 (published in the Gazette on 27 August 2020), which mainly concerns the requirement for all catering businesses (except Specific Catering Businesses) to cease the sale or supply of food or drink for consumption on the premises from 9:00 p.m. to 4:59 a.m. of the subsequent day.

*Latest directions in relation to scheduled premises*

11. By G.N. (E.) 127 of 2020 published in the Gazette on 2 September 2020, the Secretary has directed that, for a period of seven days beginning on 4 September 2020 to 10 September 2020, seven types of scheduled premises<sup>8</sup> as set out in Part 1 of Schedule 2 to Cap. 599F ("Part 1") must be closed. Further, sports premises as set out in Part 1 must be closed, except certain indoor sports premises (including badminton courts, table tennis halls and indoor bowling greens) and certain outdoor sports premises (including athletic tracks in sports grounds, tennis courts and golf courses). Places of public entertainment (except cinema) as set out in Part 1 must also be closed. Fitness centre, place of amusement, beauty parlour, club-house and massage establishment may be open subject to specified requirements and restrictions. Members may refer to the Annex to G.N. (E.) 127 of 2020 for details of the requirements and restrictions applicable to those scheduled premises which may be open from 4 September 2020 to 10 September 2020.<sup>9</sup> G.N. (E.) 127 of 2020 replaces the directions made by G.N. (E.) 123 of 2020 (published in the Gazette on 27 August 2020) which concerns (i) the closing of 10 types of scheduled premises and three types of scheduled premises as set out in Part 1 with certain exceptions, and (ii) the opening of beauty parlour subject to certain applicable requirements and restrictions.

Government notices made by the Secretary under the Prevention and Control of Disease (Prohibition on Group Gathering) Regulation (Cap. 599G)

12. In respect of the prohibition of group gatherings, by G.N. (E.) 128 of 2020 published in the Gazette on 2 September 2020, the Secretary has, pursuant to section 4(1) of Cap. 599G, specified the period of seven days from 4 September 2020 to 10 September 2020 for the purposes of the prohibition of group gatherings of more than two persons in a public place<sup>10</sup> under section 3(1)

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<sup>8</sup> Those scheduled premises include: (1) amusement game centre; (2) bathhouse; (3) party room for social gatherings; (4) club or nightclub; (5) karaoke establishment; (6) mahjong-tin kau premises; and (7) swimming pool.

<sup>9</sup> For example, in the case of a cinema, no eating or drinking inside a house is allowed.

<sup>10</sup> "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.

of Cap. 599G. G.N. (E.) 128 of 2020 replaces the previous Government notices on the periods for the application of the group gathering prohibition (i.e. G.N. (E.) 106 of 2020, G.N. (E.) 113 of 2020, G.N. (E.) 120 of 2020 and G.N. (E.) 124 of 2020 published in the Gazette on 10 August 2020, 17 August 2020, 25 August 2020 and 27 August 2020 respectively).

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