

立法會
Legislative Council

LC Paper No. LS122/19-20

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 8 September 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 (Prohibition on Group Gathering) (Amendment) (No. 10) Regulation 2020 **(L.N. 162)**

L.N. 162 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 emergency¹ relating to COVID-19.

2. L.N. 162 amends the Prevention and Control of Disease (Prohibition on Group Gathering) Regulation (Cap. 599G) to:

- (a) relax the number of persons constituting a "group gathering" prohibited under Cap. 599G from more than two to more than four; and
- (b) amend section 10 of Cap. 599G on gatherings that may be dispersed so as to adjust the number of persons constituting such gatherings to more than four as well.

3. As of the date of this report, no Legislative Council ("LegCo") Brief has been issued by the Administration on L.N. 162.

4. As advised by the Clerk to the Panel on Health Services, the Panel has not been consulted on L.N. 162.

5. L.N. 162 came into operation on 11 September 2020.

6. No difficulties have been identified in relation to the legal and drafting aspects of L.N. 162.

¹ 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 or serious disabilities (whether or not long-term) in the population.

Other matters

7. In respect of social distancing and other measures to combat the spread of COVID-19, the Secretary for Food and Health ("Secretary") has made the following Government notices² published in the Gazette on 8, 15, 23 and 24 September 2020.

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

8. In respect of the prohibition on group gatherings, the Secretary has, pursuant to section 4(1) of Cap. 599G, specified by G.N. (E.) 142 of 2020 published in the Gazette on 23 September 2020 the seven-day period from 25 September to 1 October 2020, during which no group gatherings of more than four persons may take place in any public place under section 3(1) of Cap. 599G. G.N. (E.) 142 of 2020 replaces the previous Government notices on the periods for the application of the group gathering prohibition (i.e. G.N. (E.) 138 of 2020 published in the Gazette on 15 September 2020, and G.N. (E.) 133 of 2020 published in the Gazette on 8 September 2020).

Government notices made by the Secretary for Food and Health under the Prevention and Control of Disease (Wearing of Mask) Regulation (Cap. 599I)

9. The Secretary has, pursuant to section 3(1) of Cap. 599I, specified by G.N. (E.) 143 of 2020 (published in the Gazette on 23 September 2020) the seven-day period from 25 September to 1 October 2020 during which a person must wear a mask at all times while boarding or on board a public transport carrier, or entering or present in an MTR paid area or a specified public place, save for any outdoor public places in any country parks and special areas as defined in section 2 of the Country Parks Ordinance (Cap. 208). G.N. (E.) 143 of 2020 replaces the previous Government notices on the periods for the application of the requirement to wear masks (i.e. G.N. (E.) 139 of 2020 published in the Gazette on 15 September 2020, and G.N. (E.) 134 of 2020 published in the Gazette on 8 September 2020).

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

10. Members may wish to note that the Secretary has, pursuant to Cap. 599F, imposed and issued various requirements and directions in relation to catering business and scheduled premises. The latest requirements and directions are summarized in paragraphs 11 to 12 below.

² These Government notices are not subsidiary legislation and, as such, are not required to be tabled before, and are not subject to amendment by, LegCo.

Latest requirements and directions in relation to catering business

11. By G.N. (E.) 140 of 2020 published in the Gazette on 23 September 2020, the Secretary has specified and directed that for a period of seven days from 25 September to 1 October 2020, in respect of all catering businesses, except (i) those set out in Part 1 of Schedule 1 to Cap. 599F,³ or (ii) those designated by the Chief Secretary for Administration pursuant to section 7A(1) of Cap. 599F to be exempt from the requirements and directions under Cap. 599F, the selling or supplying of food or drink for consumption on the premises of the catering business must be ceased, and any such premises (or part thereof) where food or drink is sold or supplied for consumption on the premises must be closed, from 0:00 am to 4:59 am every day, with the result that dine-in services can now operate until 11:59 pm every night. Protective measures (e.g. wearing masks, body temperature screening and provision of hand sanitisers) are extended. Other restrictions, such as suspension of live performance and dancing, and no more than four persons (as opposed to two persons during the period from 4 to 10 September 2020 under G.N. (E.) 126 of 2020 published in the Gazette on 2 September 2020) being seated together at one table, continue to be effective. G.N. (E.) 140 of 2020 extends for a further seven-day period the specification and directions made by G.N. (E.) 136 of 2020 (published in the Gazette on 15 September 2020) in respect of the period from 18 to 24 September 2020.

Latest directions in relation to scheduled premises

12. By G.N. (E.) 141 of 2020 published in the Gazette on 23 September 2020, the Secretary has directed that all 14 types of scheduled premises⁴ as set out in Part 1 of Schedule 2 to Cap. 599F may open for a period of seven days from 25 September to 1 October 2020, subject to the requirements and restrictions detailed at Annex to G.N. (E.) 141 of 2020.⁵ G.N. (E.) 141 of 2020 extends for a further period of seven days the directions made by G.N. (E.) 137 of 2020 (published in the Gazette on 15 September 2020) in respect of the period from 18 to 24 September 2020, subject to certain modifications to the specified requirements and restrictions.⁶

³ The relevant premises are (1) hospitals; (2) residential care homes; (3) treatment centres; (4) boarding schools; (5) premises controlled or managed by the Government; and (6) premises constructed to be used, and used, as private dwellings.

⁴ Those scheduled premises are: (1) amusement game centre; (2) bathhouse; (3) fitness centre; (4) place of amusement; (5) place of public entertainment; (6) party room for social gatherings; (7) beauty parlour; (8) club-house; (9) club/nightclub; (10) karaoke establishment; (11) mahjong-tin kau premises; (12) massage establishment; (13) sports premises; and (14) swimming pool.

⁵ For example, in the case of a cinema, the number of tickets to be sold and seats to be occupied of each house for film screening must not exceed 75% of the seating capacity of the house; for a place of public entertainment with live performance only, no live audience is allowed except on 1 October 2020 when the number of tickets to be sold and seats to be occupied of each place must not exceed 50% of its seating capacity; all billiard tables or bowling-alley lanes may be opened for use if there is some form of partition serving as effective buffer between adjacent tables or lanes, otherwise only alternate tables or lanes may be used.

⁶ For example, under G.N. (E.) 137 of 2020, only alternate billiard tables or alternate bowling-alley lanes could be opened for use during the period from 18 to 24 September 2020.

Government notice made by the Secretary for Food and Health under the Prevention and Control of Disease (Regulation of Cross-boundary Conveyances and Travellers) Regulation (Cap. 599H)

13. 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)⁷ issued G.N. (E.) 144 of 2020 (published in the Gazette on 24 September 2020) to specify:

- (a) a total of 11 places to which Cap. 599H is applicable with the effect that from 1 October 2020 onwards, any aircraft or vessel from the United Kingdom 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 10 places⁸ specified in the previously issued G.N. (E.) 116 of 2020, which will be suspended upon the commencement of G.N. (E.) 144 of 2020 on 1 October 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 11 places mentioned in paragraph 13(a) above ("relevant traveller"). These conditions (details of which are set out in part (B) of G.N. (E.) 144 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.

Prepared by

Cliff IP
Assistant Legal Adviser
Legislative Council Secretariat
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⁷ Members may refer to LC Paper No. LS113/19-20 previously issued by the Legal Service Division for further details of Cap. 599H.

⁸ The other 10 places are Bangladesh, Ethiopia, India, Indonesia, Kazakhstan, Nepal, Pakistan, the Philippines, South Africa and United States of America.