

**立法會**  
**Legislative Council**

LC Paper No. LS60/19-20

**Legal Service Division Report on  
Subsidiary Legislation Gazetted on 24 March 2020**

**Tabling in LegCo** : Council meeting of 25 March 2020

**Amendment to be made by** : Council meeting of 22 April 2020 (or that of 13 May 2020 if extended by resolution)

**Compulsory Quarantine of Certain Persons Arriving  
at Hong Kong (Amendment) Regulation 2020 (L.N. 28)**

In early February 2020, having regard to the then situation of public health emergency relating to the Coronavirus Disease-19 ("COVID-19"),<sup>1</sup> the Chief Executive ("CE") in Council made the Compulsory Quarantine of Certain Persons Arriving at Hong Kong Regulation (L.N. 12) (Cap. 599C) under section 8 of the Prevention and Control of Disease Ordinance (Cap. 599).<sup>2</sup> Cap. 599C introduces a temporary system of compulsory quarantine for persons arriving at Hong Kong from the Mainland, or a place outside the Mainland but has stayed in the Mainland during 14 days before the date of arrival. "Mainland" is defined in section 2 of Cap. 599C as the part of China other than Hong Kong, Macao and Taiwan. Cap. 599C came into operation on 8 February 2020 for a period of three months and will expire on 7 May 2020. Members may wish to refer to the report of the Legal Service Division ("LSD") on L.N. 12, i.e. Cap. 599C (LC Paper No. LS43/19-20).

2. L.N. 28 amends Cap. 599C mainly to expand the scope of the compulsory quarantine requirement to cover persons who arrive at Hong Kong from Macao and Taiwan (in addition to the Mainland), and persons who have stayed in Macao or Taiwan (in addition to the Mainland) for any period of time during the 14 days before the date of arrival.

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<sup>1</sup> The disease was specified as "severe respiratory disease associated with a novel infectious agent" in item 34AAA of Schedule 1 to Cap. 599 (L.N. 3 of 2020).

<sup>2</sup> Section 8(1) of Cap. 599 empowers CE in Council to make regulations for the purposes of preventing, combating or alleviating the effects of a public health emergency and protecting public health. "Public health emergency" is defined in section 8(5) of Cap. 599 to mean, among others, the occurrence of or 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.

3. L.N. 28 also amends section 3(5) of Cap. 599C to the effect that persons arriving at the Hong Kong International Airport on aircrafts that landed in Hong Kong after taking off in the Mainland, Macao or Taiwan, and persons on ships that have stayed in or sailed through the waters of the Mainland, Macao or Taiwan, are not regarded as arriving from or having stayed in the Mainland, Macao or Taiwan if no person entered the cabin of the aircrafts or boarded the ships when they were in those places or waters. Other amendments are consequential amendments to Cap. 599C following the making of L.N. 28.

4. LSD has previously enquired with the Administration on whether the compulsory quarantine requirement in Cap. 599C, which has the effect of restricting the right to liberty of person and liberty of movement as guaranteed under Articles 28 and 31 of the Basic Law, as well as Articles 5 and 8 of the Hong Kong Bill of Rights, could satisfy the four-step proportionality test as laid down in the case of *Hysan Development Co Ltd v Town Planning Board* (2016) 19 HKCFAR 372. The Administration has explained that given the epidemic in Mainland China, the protection of public health is a legitimate aim. The Administration has further explained that the compulsory quarantine requirement is reasonable, rational and necessary, as well as a proportionate response to the public health emergency. A reasonable balance has been struck between the societal benefits of the compulsory quarantine requirement and the inroads made into the right to the liberty of person and liberty of movement, and the compulsory quarantine requirement does not result in an unacceptably harsh burden on the persons affected.<sup>3</sup>

5. According to paragraph 9 of the Legislative Council Brief (no file reference) issued by the Food and Health Bureau in March 2020, the Administration is of the view that given the exigency of the situation, public consultation is not feasible.

6. As advised by the Clerk to the Panel on Health Services, the Panel has not been consulted on L.N. 28.

7. L.N. 28 came into operation on 25 March 2020.

8. Subject to Members' views on the issue as stated in paragraph 4, no difficulties have been identified in the legal and drafting aspects of L.N. 28.

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<sup>3</sup> Please refer to paragraphs 4 and 5 of LSD's further report on L.N. 12 and the Prevention and Control of Disease (Disclosure of Information) Regulation (L.N. 13) (LC Paper No. LS64/19-20).