

立法會
Legislative Council

LC Paper No. CB(2)1429/19-20

(These minutes have been
seen by the Administration)

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**Subcommittee on Eleven Pieces of Subsidiary Legislation Relating to
the Prevention and Control of Disease and Gazetted Respectively on
27 March, 28 March, 1 April, 28 April and 5 May 2020**

**Minutes of the second meeting
held on Monday, 25 May 2020, at 5:30 pm
in Conference Room 1 of the Legislative Council Complex**

- Members present** : Hon CHAN Hoi-yan (Chairman)
Hon KWOK Wai-keung, JP
Hon Christopher CHEUNG Wah-fung, SBS, JP
Hon SHIU Ka-fai, JP
Hon Wilson OR Chong-shing, MH
Hon CHAN Chun-ying, JP
Hon LUK Chung-hung, JP
Hon Vincent CHENG Wing-shun, MH, JP
- Members Absent** : Hon MA Fung-kwok, SBS, JP
Hon LEUNG Che-cheung, SBS, MH, JP
Ir Dr Hon LO Wai-kwok, SBS, MH, JP
- Public Officers attending** : Item I

Dr CHUI Tak-yi, JP
Under Secretary for Food and Health

Mr Howard CHAN Wai-kee, JP
Deputy Secretary for Food and Health(Health)1
Food and Health Bureau

Mr Chris FUNG Pan-chung
Principal Assistant Secretary for Food and Health (Health) 3
Food and Health Bureau

Ms Maisie HO Mei-chi
Principal Assistant Secretary for Food and Health (Health) 5
Food and Health Bureau

Dr WONG Ka-hing, JP
Controller, Centre for Health Protection
Department of Health

Dr Heston KWONG Kwok-wai, JP
Head, Emergency Response and Programme Management
Branch
Department of Health

Dr LEUNG Yiu-hong
Chief Port Health Officer
Department of Health

Mr Gilbert MO Sik-keung
Dep Law Draftsman I
Department of Justice

Mr Michael LAM Siu-chung
Dep Law Draftsman II (Acting)
Department of Justice

Miss Emma WONG
Senior Assistant Law Draftsman (Acting)
Department of Justice

Clerk in attendance : Ms Maisie LAM
Chief Council Secretary (2) 5

Staff in attendance : Mr Alvin CHUI
Assistant Legal Adviser 3

Mr Ronald LAU
Council Secretary (2) 5

Miss Maggie CHIU
Legislative Assistant (2) 5

Action

I. Meeting with the Administration

[File Ref.: L.N. 31 to 33, 46 to 52 and 59 of 2020, Legislative Council Briefs issued by the Food and Health Bureau in March, April and on 9 May 2020, FHB/H/16/123, LC Paper Nos. LS62/19-20, LS68/19-20, LS70/19-20, CB(1)635/19-20(01) to (02), CB(2)1051/19-20(01) to (16)]

The Subcommittee deliberated (index of proceedings attached at **Annex**).

2. Members noted that three motions had been moved by the Chairman of the Subcommittee at the Council meeting of 20 May 2020 to extend the scrutiny periods of L.N. 31 to L.N. 33, L.N. 46 to L.N. 52 and L.N. 59 of 2020 to the Council meetings of 10, 17 and 24 June 2020 respectively. Members agreed to adopt the proposed order of study as set out in LC Paper No. CB(2)1051/19-20(14) to examine the above 11 items of subsidiary legislation.

3. Members noted the four written submissions received by the Subcommittee [LC Paper Nos. CB(2)1051/19-20(15) and (16) and CB(1)635/19-20(01) and (02)].

Examination of three items of subsidiary legislation relating to imposition of temporary measures on catering business and scheduled premises

4. The Subcommittee completed the examination of the provisions of the Prevention and Control of Disease (Requirements and Directions) (Business and Premises) Regulation (L.N. 31 of 2020), the Prevention and Control of Disease (Requirements and Directions) (Business and Premises) (Amendment) Regulation 2020 (L.N. 33 of 2020) and the Prevention and Control of Disease (Requirements and Directions) (Business and Premises) (Amendment) (No. 2) Regulation 2020 (L.N. 51 of 2020).

II. Any other business

5. Members noted that the next meeting of the Subcommittee would be held on 26 May 2020 at 5:30 pm.

6. There being no other business, the meeting ended at 7:20 pm.

**Proceedings of the second meeting of the
Subcommittee on Eleven Pieces of Subsidiary Legislation Relating to the
Prevention and Control of Disease and Gazetted Respectively on
27 March, 28 March, 1 April, 28 April and 5 May 2020
on Monday, 25 May 2020, at 5:30 pm
in Conference Room 1 of the Legislative Council Complex**

Time marker	Speaker	Subject(s)/Discussion	Action required
<i>Agenda item I: Meeting with the Administration</i>			
000544 - 001038	Chairman	Opening remarks Members agreed to adopt the proposed order of study prepared by the Legislative Council Secretariat [LC Paper No. CB(2)1051/19-20(14)].	
001039 - 001252	Chairman Admin	Briefing by the Administration on the items of subsidiary legislation under the study of the Subcommittee	
001253 - 001903	Chairman Mr Christopher CHEUNG Mr KWOK Wai-keung Admin	Mr Christopher CHEUNG welcomed the Administration's arrangements of exempting the 14-day compulsory quarantine arrangement for designated categories of persons whose travelling was necessary for purposes relating to manufacturing operations, business activities or the provision of professional services in the interest of Hong Kong's economic development under the Compulsory Quarantine of Certain Persons Arriving at Hong Kong Regulation (Cap. 599C). He urged the Administration to further expand the coverage of the exemption scheme to management staff of the financial services sector. Mr KWOK Wai-keung shared a similar view. The Administration advised that it had been fighting the epidemic by adopting a "suppress and lift" approach and balancing the oft-competing factors of public health protection, economic impact and social acceptance. The exemption arrangement for various categories of persons would be formulated by the relevant bureaux taking into account among others stakeholders' views, before seeking the approval of the Chief Secretary for Administration. The Food and Health Bureau ("FHB") would relay members' views to the relevant bureaux for consideration. Meanwhile, the Administration was actively discussing with Guangdong and Macao authorities under the joint prevention and control efforts on some form of mutual recognition arrangement such that some travellers from Hong Kong could be exempted from the 14-day compulsory quarantine requirement imposed by the Mainland and Macao authorities subject to fulfilment of certain conditions.	
001904 - 002919	Chairman Admin	The Chairman's view that the definitions of "fitness centre" and "beauty parlour" were not clear enough, and her enquiries as to (a) whether the inclusion of provision of advice, instruction, training or assistance on dancing	

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		<p>for the purpose of improving physical fitness under the definition of "fitness centre" would lead to ambiguity in the case of dancing studios for children; and (b) the reason why premises providing solely nail treatment services would be regarded as beauty parlour and had to suspend their operation from 10 April to 8 May 2020 while hair salons which had nail treatment being one of its services could continue to operate.</p> <p>The Administration advised that there was currently no licensing regime for fitness centres and beauty parlours. A generic, common sense approach that discouraged congregation had been adopted having due regard to whether the activities and/or premises were of higher risk as far as the transmission of coronavirus disease 2019 ("COVID-19") was concerned. The question of whether certain premises would fall within the relevant definition had to be decided on a case-by-case basis having regard to the actual circumstances and the extent and nature of the services provided at the premises.</p> <p>On the Chairman's further query about the reason why hair salon was not listed as one type of the scheduled premises and subject to the imposition of temporary measures for the purpose of ensuring social distancing for the sake of public health, the Administration advised that a proper balance between public health and daily needs of members of the public had to be struck.</p>	
002920 - 003539	Chairman Mr KWOK Wai-keung Admin	Mr KWOK Wai-keung sought information on the threshold for lifting some or even all of the social distancing measures and called for an early announcement of the concrete plan in this regard. The Administration advised that the relaxation of the measures would be subject to the epidemic development, and assured members that it would review the measures from time to time having regard to the latest health risk assessment and maintain close communication with the trade in this regard.	
003540 - 010544	Chairman Admin Mr SHIU Ka-fai	The Chairman and Mr SHIU Ka-fai's enquiries as to under what conditions would the scheduled premises that were still required to remain closed (i.e. bathhouse, party room, club or night club, and karaoke establishment) be allowed to resume business. In response, the Administration advised that given that COVID-19 would not be eradicated at least in the short run, its strategy was to incorporate disease prevention and control as well as infection management into the new normal of the daily operation of the society. While maintaining various disease prevention measures, it had allowed room for a gradual resumption of normal operation and activities of the society when the situation permitted. The setting of the extension period of the social distancing measures imposed on the above four scheduled premises as seven days instead of 14 days had already balanced the factors of public health risks (in particular that arising from a	

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		<p>cluster of three local cases with unknown infection sources) and economic impact.</p> <p>The Chairman expressed concern that Chun Yeung Estate served as the main quarantine centre for Hong Kong residents returning from high-risk places by chartered flights, given that there were other quarantine centres and additional quarantine units would be available in the few coming months to cope with future needs. In her view, a timetable should be set for releasing Chun Yeung Estate to prospective tenants who had accepted advance allocation of flats and further financial relief should be provided to them. Mr SHIU Ka-fai shared a similar view on the provision of further financial relief to the affected tenants and scheduled premises.</p> <p>The Administration advised that it would consider ceasing the use of Chun Yeung Estate as a quarantine centre once the supply of additional quarantine units, with the construction of which under way, was adequate to meet the short-term to medium-term needs. It was necessary to keep the existing quarantine facilities for the time being to cope with the quarantine need arising from the return of thousands of Hong Kong residents from other high-risk places by batches and the emergence of clusters of local cases which resulted in a large number of close contacts that had to be put under quarantine. Meanwhile, the Hong Kong Housing Authority had provided different options to the tenants concerned to meet their housing needs. FHB would relay members' views to the relevant bureau for consideration.</p>	
010545 - 010619	Chairman Admin	Commencement of examination of the three items of subsidiary legislation relating to the imposition of temporary measures on catering business and scheduled premises in respect of the public health emergency concerning COVID-19	
010620 - 010935	Chairman Admin ALA3	<p><u>Examination of L.N. 31 of 2020</u></p> <p><i>Examination of Part 1 (sections 1 and 2)</i></p> <p>On the Legal Adviser to the Subcommittee's enquiry as to why "catering business" was not defined in section 2 and what kind(s) of acts or activities would be considered as falling within the meaning of "catering business" for the purposes of L.N. 31 of 2020, the Administration advised that "catering business" should be accorded with its ordinary meaning in the dictionary with due regard to the context in which it appeared.</p>	
010936 - 011604	Chairman Admin	<p><i>Examination of Part 2 (sections 3 to 7)</i></p> <p>In response to the Chairman's enquiry, the Administration affirmed that the food or drink sold or supplied by a hotel or guesthouse as part of room service would not be regarded as being sold or supplied for consumption on</p>	

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		<p>the premises to be regulated under section 3(1).</p> <p>The Chairman asked about the regulation of private group gathering took place in catering premises after its opening hours. The Administration advised that the scenario referred to by the Chairman would fall within the purview of the Prevention and Control of Disease (Prohibition on Group Gathering) Regulation (Cap. 599G).</p>	
011605 - 011658	Chairman Admin	<i>Examination of Part 3 (sections 8 and 9)</i>	
011659 - 012018	Chairman Admin ALA3	<p><i>Examination of Part 4 (sections 10 to 13)</i></p> <p>Legal Adviser to the Subcommittee enquired whether it was possible for any specified premises where an inspector might enter and inspect at any reasonable time as provided for in section 12(1)(a) to be residential premises and, if so, whether an inspector could enter such residential premises without a warrant. The Chairman added that there was family business with the front area of the premises used for business whereas the rear part used for residence.</p> <p>The Administration advised that specified premises, according to their definition or description in section 10, were premises that were used for the carrying on therein of a business, which were by their nature not premises for residential use.</p>	
012019 - 012213	Chairman Admin	<p><i>Examination of Part 5 (section 14)</i></p> <p>In response to the Chairman's enquiry, the Administration advised that the expiry date of the Prevention and Control of Disease (Requirements and Directions) (Business and Premises) Regulation (Cap. 599F), which was currently set as 27 June 2020, could be extended by an amendment regulation if deemed necessary.</p>	
012214 - 013247	Chairman Admin ALA3	<p><i>Examination of Schedules 1 and 2</i></p> <p>Legal Adviser to the Subcommittee sought clarification as to whether premises used for teaching a particular dance would fall within the definition of "fitness centre". The Chairman remarked that it was not clear as to whether dancing studios and martial arts schools for children would fall within such definition.</p> <p>The Administration advised that it had to be decided on a case-by-case basis having regard to whether the nature of the activity fell within the definition of "fitness centre". The emphasis would be placed on whether the activity concerned was for improving physical fitness or was only a recreational activity (which would fall outside the definition).</p>	

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013248 - 015233	Chairman Admin ALA3	<p><u>Examination of L.N. 33 of 2020</u></p> <p>Legal Adviser to the Subcommittee's enquiry about whether a hair salon offering nail treatment or hair loss improvement services would fall within the purview of "beauty parlour", and the Chairman's opinion that the term "beauty parlour" could not clearly reflect that the part of the premises of a hair salon that was exclusively or mainly used for providing nail treatment or hair loss improvement services would be subject to regulation.</p> <p>The Administration advised that whether part of the services provided at a hair salon fell under the definition of services provided at a beauty parlour would depend on the actual circumstances and the extent and nature of the services provided, and those falling under the purview of beauty parlour would be subject to regulation. It was the nature of the activity carried out in the premises rather than the name of the business that mattered.</p> <p>In reply to the Chairman's enquiry, Legal Adviser to the Subcommittee elaborated on the principles to determine the admissibility of any proposed amendments to an item of subsidiary legislation.</p>	
015234 - 015347	Chairman Admin	<u>Examination of L.N. 51 of 2020</u>	
<i>Agenda item II: Any other business</i>			
015348 - 015435	Chairman	<p>Arrangement for the next meeting</p> <p>Closing remarks</p>	