

立法會
Legislative Council

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(These minutes have been
seen by the Administration)

Ref : CB2/SS/2/19

**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 third meeting
held on Tuesday, 26 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
Ir Dr Hon LO Wai-kiwok, SBS, MH, JP
Hon SHIU Ka-fai, JP
Hon Wilson OR Chong-shing, MH
Hon CHAN Chun-ying, JP
Hon Vincent CHENG Wing-shun, MH, JP

Member Attending : Hon CHU Hoi-dick

Members absent : Hon MA Fung-kiwok, SBS, JP
Hon LEUNG Che-cheung, SBS, MH, JP
Hon LUK Chung-hung, 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 L.N. 33, L.N. 46 to L.N. 52 and L.N. 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**).

Examination of three items of subsidiary legislation relating to prohibition on group gathering

2. The Subcommittee completed the examination of the provisions of the Prevention and Control of Disease (Prohibition on Group Gathering) Regulation (L.N. 32 of 2020), the Prevention and Control of Disease (Prohibition on Group Gathering) (Amendment) Regulation 2020 (L.N. 52 of 2020) and the Prevention and Control of Disease (Prohibition on Group Gathering) (Amendment) (No. 2) Regulation 2020 (L.N. 59 of 2020).

Follow-up actions required of the Administration

Admin

3. The Administration was requested to:

- (a) in respect of the 659 fixed penalty notices of \$2,000 (as at 26 May 2020) issued to offenders participating in prohibited group gatherings under the Prevention and Control of Disease (Prohibition on Group Gathering) Regulation (Cap. 599G), advise the number of penalty notices settled; and
- (b) advise the target timetable for travellers from Hong Kong to the Mainland and Macao being exempted from the 14-day quarantine requirement imposed by the Mainland and Macau authorities if they could fulfill certain criteria through the joint prevention and control efforts of coronavirus disease 2019 with Guangdong and Macao authorities.

Action

II. Any other business

Legislative timetable

4. Members noted that the Chairman would make a verbal report on the deliberations of the Subcommittee on L.N. 32, L.N. 52 and L.N. 59 of 2020 as well as that on 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), the examination of which was completed at the last meeting, to the House Committee on 29 May 2020. The deadlines for giving notice of amendment, if any, to L.N. 31 to L.N. 33 of 2020, L.N. 51 and L.N. 52 of 2020 and L.N. 59 of 2020 would be 3, 10 and 17 June 2020 respectively.

5. There being no other business, the meeting ended at 7:06 pm.

Council Business Division 2
Legislative Council Secretariat
4 September 2020

**Proceedings of the third 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 Tuesday, 26 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>			
000400 - 000556	Chairman Admin	Opening remarks	
000557 - 000710	Chairman Mr SHIU Ka-fai Admin	Mr SHIU Ka-fai's call for the Administration to provide further financial relief under the Anti-epidemic Fund to beauty parlours which had been required to close for two 14-day periods (i.e. from 10 April to 7 May 2020) in accordance with the directions made under the Prevention and Control of Disease (Requirements and Directions) (Business and Premises) Regulation (Cap. 599F).	
000711 - 000942	Chairman Admin	Briefing by the Administration on three items of subsidiary legislation relating to prohibition on group gathering (i.e. L.N. 32, L.N. 52 and L.N. 59 of 2020)	
000943 - 001654	Chairman Mr SHIU Ka-fai Admin	<p>Mr SHIU Ka-fai's enquiry about the prosecution figures on contravention of the prohibition of group gathering and his call for the Administration to take enforcement actions against netizens calling for participation in public events and enhance public education in this regard.</p> <p>The Administration advised that as of 26 May 2020, the law enforcement agencies had carried out more than 120 000 inspections, given around 14 000 verbal warnings and issued 659 fixed penalty notices. A total of 15 prosecutions were made against three organizers of a street performance, 10 participants of a group gathering, an organizer of an illegal gambling activity and an organizer of a public gathering. It should be noted that the offences prescribed in section 6 of the Prevention and Control of Disease (Prohibition on Group Gathering) Regulation (Cap. 599G) were related to a prohibited group gathering which had actually taken place and calling for participation in a public event which had yet to take place was not itself an offence thereunder.</p>	
001655 - 001920	Chairman Mr CHAN Chun-ying Admin	Mr CHAN Chun-ying enquired about the number of penalty notices settled in respect of the 659 penalty notices issued under Cap. 599G and the actions against the person who failed to pay the penalty. The Administration advised that it would supplement the number of notices settled in writing. Under Cap. 599G, a notice demanding payment of the fixed penalty would be served on the person who failed to pay the penalty within 21 days from the issue date of the fixed penalty notice. If such payment was not made within 10 days after the date on which the demand notice was served, an application would be made before a magistrate to serve	Admin

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		<p>on the person a recovery order. The person would be liable to imprisonment if he or she failed to comply with the recovery order.</p>	
001921 - 002830	<p>Chairman Mr KWOK Wai-keung Admin</p>	<p>Mr KWOK Wai-keung and the Chairman's concern that some netizens had committed to pay the fixed penalty on behalf of the participants if they were given a penalty notice in respect of the offence of participating in a prohibited group gathering. They asked whether netizens making such statements would be regarded as suborning other persons to commit an offence and, if so, the enforcement actions taken.</p> <p>The Administration advised that there was no provision specifying that the fixed penalty had to be paid by the person to whom the penalty notice had been given. The act of suborning other persons to commit an offence was itself an offence. As to whether a particular person had contravened the law and warranted prosecution, it would be a matter to be determined by the law enforcement agencies based on facts and evidence.</p>	
002831 - 003537	<p>Chairman Admin Mr SHIU Ka-fai</p>	<p>The Chairman sought elaboration on the definition of "public place". The Administration advised that a public place meant a place to which the public or a section of the public might or were permitted to have access from time to time, whether by payment or otherwise. In response to the Chairman's follow-up enquiry, the Administration explained that a public place that had been block-booked would remain a public place if the public or a section of the public might gain access at the material time.</p> <p>The Chairman enquired the basis for setting the number of persons allowed for group gatherings in public places and whether the existing restriction of no more than eight persons would be further relaxed. The Administration advised that while there was no strict science to determine the number of persons allowed for such group gatherings, the setting of the latest benchmark of restricting group gathering in public places to no more than eight persons had taken into account the local social and economic considerations, the latest public health risk assessment as well as the practices in overseas places where the cap on such number ranged from two to 10 or so persons. It would monitor the epidemic development and make adjustments to the social distancing measures, including the number of persons allowed in a group gathering in a public place as necessary.</p>	
003538 - 004004	<p>Chairman Mr SHIU Ka-fai Admin</p>	<p>In response to Mr SHIU Ka-fai's enquiry, the Administration elaborated on the exemption from compulsory quarantine arrangement for inbound travellers from the Mainland, Macao or Taiwan under section 4 of the Compulsory Quarantine of Certain Persons Arriving at Hong Kong Regulation (Cap. 599C) and advised that it was in discussion with the Guangdong and Macao authorities under the joint prevention and control efforts of coronavirus disease 2019 ("COVID-19") on the exemption of travellers from Hong</p>	

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		Kong to Guangdong and Macao from the 14-day quarantine requirement imposed by these authorities if certain conditions were met.	
004005 - 005241	Chairman Mr Wilson OR Admin Mr SHIU Ka-fai	<p>Mr Wilson OR's enquiries about (a) the way forward for the prohibition of group gathering as the epidemic situation eased; (b) the eligibility for the exemption from compulsory quarantine arrangement and the time required for processing an application for exemption; and (c) the target timetable to enable travellers from Hong Kong to the Mainland and Macao being exempted from the compulsory quarantine requirement imposed by the Mainland and Macao authorities.</p> <p>Mr SHIU Ka-fai's call for enabling personnel of Hong Kong enterprises with manufacturing operations in the Mainland to be exempted from the compulsory quarantine requirement imposed by the Mainland authority by, say, leveraging on the viral testing capability of the University of Hong Kong-Shenzhen Hospital.</p> <p>The Administration advised that (a) it would consider further relaxing the prohibition of group gathering when the epidemic situation permitted; (b) the time required for processing an exemption application from the designated categories of persons would depend on the arrangements of the relevant bureau(x); and (c) it had all along been closely liaising and coordinating with the Mainland and Macao authorities with a view to introducing, under joint prevention and control, mutual recognition of viral test results conducted by recognized medical laboratories, and would announce the arrangements when available. Mr Wilson OR urged the Administration to set a performance pledge for processing an application for exemption and advise the timetable on item (c) above.</p>	Admin
005242 - 010203	Chairman Admin	<p>On the Chairman's enquiry as to whether some form of partitioning between tables could be used in place of the condition imposed by the directions made under Cap. 599F that tables in catering premises had to be at least 1.5 metres apart, the Administration replied in the affirmative.</p> <p>The Chairman called on the Administration to consider putting in place a mechanism to enable the retaining of some of the existing social distancing measures in the long run, such as conducting body temperature screening and provision of hand sanitizers in the catering and scheduled premises, for the prevention and control of communicable diseases. The Administration explained that Cap. 599F and Cap. 599G were specifically made in response to the outbreak of COVID-19. It would continue to review the long-term public health measures for the prevention and control of communicable diseases from time to time.</p>	
010204 - 010233	Chairman	Commencement of examination of the provisions of L.N. 32, L.N. 52 and L.N. 59 of 2020	

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010234 - 010641	Chairman Admin	<p><u>Examination of L.N. 32 of 2020</u></p> <p><i>Examination of sections 1 to 8</i></p> <p>On the Chairman's enquiry about whether suborning others to commit an offence in relation to group gatherings in public places would constitute an offence under section 6, the Administration advised that the act of suborning other persons to commit an offence was covered by other legislation.</p>	
010642 - 011143	Chairman Admin	<p><i>Examination of sections 9 to 12</i></p> <p>The Chairman enquired if a group gathering of more than eight persons would be allowed if there was a distance of not less than 1.5 metres between each participant.</p> <p>The Administration advised that a group gathering generally meant a group of people who gathered for a common purpose. Whether a particular gathering was a group gathering depended on the actual circumstances of the case, such as whether the gathering was organized beforehand, whether there was any interaction between or among the participants, and whether the gathering only lasted for a very short period of time. If the group gathering exceeded the limit of eight persons, even if the participants were divided into small groups of not more than eight persons each and there was a distance of not less than 1.5 metres between each small group, it might still be regarded as one group gathering depending on the actual circumstances.</p>	
011144 - 011511	Chairman Mr Vincent CHENG Admin	<p>Mr Vincent CHENG called on the Administration to well communicate with operators of catering business and scheduled premises regarding the social distancing measures they had to observe. The Administration assured members that it would continue to do so.</p>	
011512 - 011803	Chairman Admin ALA3	<p><i>Examination of sections 13 and 14</i></p> <p>In response to Legal Adviser to the Subcommittee's enquiry in respect of the no mention of a need for an authorized officer appointed under section 14 to produce written proof of appointment as detailed in his letter to the Administration dated 3 April 2020 (LC Paper No. CB(2)1051/19-20(10)), the Administration elaborated its response set out in this regard in its reply letter dated 16 April 2020 (LC Paper No. CB(2)1051/19-20(11)).</p>	
011804 - 011826	Admin	<p><i>Examination of sections 15 and 16</i></p>	
011827 - 012300	Chairman Mr Vincent CHENG Admin	<p><i>Examination of Schedule 1</i></p> <p>The Chairman sought elaboration on the exemption of group gathering necessary for the proceedings in the Legislative Council ("LegCo") or a District Council, in particular whether the exemption was confined to those gatherings that took place in premises which were regularly used as a place</p>	

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		<p>for the relevant proceedings (such as the LegCo Complex). Mr Vincent CHENG sought clarification as to whether a Member who reportedly participated in a group gathering of 40-odd persons in April 2020 in a bar having its metal gate closed by half during the time of the gathering was a case of exemption.</p> <p>The Administration advised that the exemption concerned did not cover, among others, group gatherings organized or participated by individual Legislative Councillors or District Councillors outside LegCo or a District Council, whether or not as a function of the Councillors.</p>	
012301 - 012929	Chairman Mr Vincent CHENG Admin	<p>Noting that a group gathering held for imparting information or skills, or handling supplies or items, that were conducive to the prevention and control of the specified disease was an exempted group gathering, the Chairman enquired whether "specified disease" could refer to any disease. Mr Vincent CHENG expressed concern about talks and activities with the actual purposes other than the above seeking to make use of this exemption to circumvent the prohibition.</p> <p>The Administration advised that by virtue of the amendment to section 2 introduced under L.N. 52 of 2020, "specified disease" meant COVID-19. Law enforcement agencies would take actions against group gatherings for purposes other than for the prevention and control of COVID-19 based on actual circumstances and evidence.</p> <p>The Chairman asked whether enforcement action would be taken against prohibited group gatherings that had already taken place. She urged the law enforcement agencies to step up investigation and prosecution if any report was made in this regard. The Administration advised that authorized officers were empowered to enter and search premises with warrant for investigation if, upon receipt of a report of any suspected offence under Cap. 599G, there were reasonable grounds for suspecting that there was on any premises any thing that was or contained, or that was likely to be or to contain, evidence of the offence.</p>	
012930 - 013316	Chairman Admin	<p>The Chairman's enquiry on whether the exemption of group gathering at a place of work for the purposes of work was referring to a gathering of employees of the organization concerned but not other persons who worked therein. The Administration advised that the exemption referred to employees working at a place of work of their organization. However, it was understandable that there might be specific operational needs for certain industries and judgment would be made on a case-by-case basis.</p>	
013317 - 013451	Chairman Admin	<i>Examination of Schedule 2</i>	
013452 - 013615	Chairman Admin	<u>Examination of L.N. 52 of 2020</u>	

Time marker	Speaker	Subject(s)/Discussion	Action required
013616 - 013740	Chairman Admin	<u>Examination of L.N. 59 of 2020</u>	
<i>Agenda item II: Any other business</i>			
013741 - 014041	Chairman	Legislative timetable Closing remarks	

Council Business Division 2
Legislative Council Secretariat
4 September 2020