



立法會秘書處 法律事務部
LEGAL SERVICE DIVISION
LEGISLATIVE COUNCIL SECRETARIAT

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Urgent by fax (2840 0467)

Mr Ronald HO
Assistant Secretary for Food and Health (Health)1A
Food and Health Bureau
19/F, East Wing
Central Government Offices
2 Tim Mei Avenue, Tamar
Hong Kong

3 April 2020

Dear Mr HO,

**Prevention and Control of Disease (Requirements and Directions)
(Business and Premises) Regulation (L.N. 31 of 2020)**

**Prevention and Control of Disease
(Prohibition on Group Gathering) Regulation (L.N. 32 of 2020)**

We are scrutinizing the captioned Regulations with a view to advising Members on their legal and drafting aspects. To facilitate Members' consideration of the Regulations, we should be grateful if you could clarify the following issues.

L.N. 31 of 2020

Section 3

It is noted that "catering business" is not defined in L.N. 31 or the Prevention and Control of Disease Ordinance (Cap. 599). Please clarify what kind(s) of acts/activities would be considered as falling within the meaning of "catering business" for the purposes of L.N. 31.

Section 3(5) of L.N. 31 provides that for the purposes of subsection (1), an area adjacent to the premises of the business where seating or tables are made available (whether or not by the business) for customers of the business is to be regarded as part of the premises of the business. In respect of the part of the premises where seating or tables are made available by somebody else, is the person responsible for

carrying on the catering business be required under section 3(1) to close that part of the premises (which may not in fact be within the control of the person)?

Section 12

Section 12(1)(a) of L.N. 31 provides that an inspector may at any reasonable time enter and inspect any specified premises as the inspector considers necessary. Is it possible for any specified premises to be residential premises? And if so, may an inspector enter such residential premises without a warrant under section 12(1)(a)?

Schedule 2

In Part 2 of Schedule 2 to L.N. 31, "fitness centre" is defined to mean any premises on which one of more of the following types of services are provided: (a) the provision of exercise machines or equipment for use; (b) the provision of advice, instruction, training or assistance on improving physical fitness, including among others (ii) dancing. Is it intended that premises used for teaching ballet or modern dance would fall within the definition of "fitness centre"?

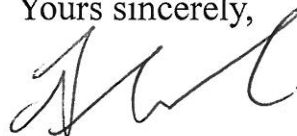
L.N. 32 of 2020

Section 14

Section 11(2) of L.N. 31 provides that an inspector appointed by the Secretary for Food and Health must, if so required, produce written proof of his or her appointment before performing a function under Part 4 of L.N. 31. It is noted that there is no similar requirement to produce written proof in respect of an authorized officer appointed by the Director of Health under section 14 of L.N. 32. Please clarify whether a different approach is adopted in relation to an authorized officer appointed under section 14 of L.N. 32, and if so, why.

We would appreciate it if you could let us have your reply (in both English and Chinese) by 9 April 2020.

Yours sincerely,



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Assistant Legal Adviser

c.c. Department of Justice

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