

LEGISLATIVE COUNCIL BRIEF

PREVENTION AND CONTROL OF DISEASE ORDINANCE (CAP. 599)

PREVENTION AND CONTROL OF DISEASE (PROHIBITION ON GROUP GATHERING) (AMENDMENT) (NO. 2) REGULATION 2020

INTRODUCTION

At the meeting of the Executive Council on 5 May 2020, the Council **ADVISED** and the Chief Executive **ORDERED** that the the Prevention and Control of Disease (Prohibition on Group Gathering) (Amendment) (No.2) Annex A Regulation 2020 (“the Amendment Regulation”) (at Annex A) should be made under section 8 of the Prevention and Control of Disease Ordinance (Cap. 599) (“the Ordinance”) to lift or relax some of the restrictions on group gatherings in public places under the Prevention and Control of Disease (Prohibition on Group Gathering) Regulation (Cap. 599G) (“the Regulation”), by –

- (a) changing the definition of group gathering under section 2 of the Regulation from “a gathering of more than 4 persons” to “a gathering of more than 8 persons” so as to allow larger group gatherings;
- (b) changing, having regard to (a), the criteria to disperse “dispersable group gathering” under section 10(2) of the Regulation from “the total number of participants of the gatherings is more than 4” to “the total number of participants of the gatherings is more than 8”; and
- (c) expanding the list of exempted group gatherings under Schedule 1 to the Regulation to allow the gradual resumption of social activities.

PRESENT POSITION AND CONSIDERATIONS

Local Situation

2. From mid- to late March, there had been a sharp increase in the

number of confirmed cases, mainly driven by imported cases with travel history from places with higher infection risks of Coronavirus Disease-2019 (“COVID-19”) such as the United Kingdom (“UK”). There was also a spike in local cases linked to cases with travel history involving clusters of bars/pubs and karaoke establishments.

3. To contain the spread, the Government has taken resolute actions to control arrivals at the Hong Kong International Airport and impose more stringent social distancing measures. A summary of the measures is at

Annex B Annex B.

4. These measures have begun to deliver results since early April 2020 with a gradual decrease in the number of confirmed cases. Generally speaking, Hong Kong has successfully **flattened the curve** with the number of confirmed cases dropping to just **seven imported cases from Pakistan and United States** in the last seven days. As at 8 May 2020, there are 1045 cases in Hong Kong, including 1044 confirmed cases and one probable case.

Possible Lifting

5. World Health Organization (“WHO”) reiterated that lifting of social and economic restrictions must be done extremely carefully to avoid risking a resurgence and flagged up six factors for considering whether restrictions could be lifted, as follows –

- (a) Transmission is controlled;
- (b) Health system capacities are in place to detect, test, isolate and treat every case and trace every contact;
- (c) Outbreak risks are minimised in special settings like health facilities and nursing homes;
- (d) Preventive measures are in place in workplaces, schools and other places where it is essential for the people to go;
- (e) Importation risks can be managed; and
- (f) Communities are fully educated, engaged and empowered to adjust to the “new norm”.

6. In particular, WHO has advised that Governments need to explain to their people that the world is not about to return to normal. Without a vaccine or a therapy, life will be constrained and economies will remain depressed. While the need to devise exit plans is urgent as the cost of hard lockdowns is becoming alarming, however much exits are needed, they are also hard

because most of the world remains susceptible to a second wave of COVID-19. Any lifting should be gradual and modest, in phases.

Readiness of Hong Kong on Lifting

7. We have assessed our readiness on lifting against the WHO criteria and consulted experts of the Expert Advisory Panel under the Steering Committee cum Command Centre in relation to the Novel Coronavirus Infection. With the support of our experts, we are confident that the time has come for some of the social distancing measures to be lifted; however, we should remain agile and be ready to reverse back to the “suppression” mode once adverse signs resurface, by adopting a relatively low threshold. In reaching our considered view, we have taken the following into account –

- (a) the low number of local cases;
- (b) the full-fledged rolling out of the “Test and Hold” arrangement to manage importation risks;
- (c) the improved stock level of personal protective equipment;
- (d) the commencement of local production lines of masks;
- (e) the ramping up of testing capacity with the support of the two universities and the private sector;
- (f) the high level of alertness in terms of personal hygiene among the population; and
- (g) the absence of complete lockdown which enables easier transition into the lifting phase.

8. To consider the possible lifting in a holistic manner, the Government needs to take into account the adverse economic impact and social costs of the social distancing measures currently in place, as well as the increasing fatigue of the community which has to be addressed in a pragmatic manner. All in all, a window of opportunity exists for Hong Kong to lift some of the social distancing measures in place at the moment.

ENHANCEMENT MEASURES

Increasing the Number of Persons in Group Gathering in Public Places

9. The Regulation was introduced in end-March 2020 to prohibit any

group gathering of **more than four persons** in any public places during any specified period. Despite the fact that an increasing number of countries with more challenging epidemic situation than Hong Kong have started to plan for or implement exit strategies, restriction on group gathering is still commonly adopted in these countries. The importance of such measure should not be easily downplayed.

10. In the local context, we see a need to continue imposing restrictions on group gathering in public places, especially to contain the risk of the congregation of people who wish to enjoy their day off during Sundays and public holidays. However, there is room for increasing the number of persons permitted for each group gathering in public places given the latest health risk assessment.

11. By way of background, when we first introduced the Regulation, we noted that similar practice had been adopted in overseas countries such as the UK, Australia, Germany and Singapore, where the maximum number of people allowed under this measure varied from **two** to **ten** persons from the perspective of social distancing. At that time, we considered that limiting the group to two persons might be too draconian whereas ten would be too many. Taking into account local circumstances and balancing the practical need for some people such as persons in need, the elderly and young kids, we considered that the benchmark of four persons in a group to gather in public places was reasonable and realistic.

12. While there is no strict science to determine the number of persons allowed for group gathering, we have taken into account the social and economic considerations plus the latest public health risk and have decided to increase the number of persons to **no more than eight** per group gathering.

Expanding the Scope of Exempted Group Gatherings

13. Schedule 1 to the Regulation specifies the following 12 types of exempted group gatherings –

- (1) Group gathering for the purposes of or related to transportation;
- (2) Group gathering for performing any governmental function;
- (3) Group gathering for performing any function of a statutory body or an advisory body of the Government;
- (4) Group gathering at a place of work for the purposes of work;
- (5) Group gathering for obtaining or receiving hospital or healthcare

- service at a healthcare facility;
- (6) Group gathering of persons living in the same household;
- (7) Group gathering necessary for the conduct of proceedings in a court, magistrates' court or tribunal;
- (8) Group gathering necessary for the proceedings in the Legislative Council or a District Council;
- (9) Group gathering during a funeral, or during any other occasion for mourning for or remembering a deceased who has yet to be buried or cremated (including any ritual or ceremony held in the vicinity of the place where the deceased died or suffered fatal injury to mourn for the death of the deceased);
- (10) Group gathering of not more than 20 persons during a wedding ceremony at which no food or drink is served;
- (11) Group gathering at a meeting of a body that must be held within a specified period in order to comply with any Ordinance or other regulatory instrument that governs the operation of the body or its business; and
- (12) Group gathering held for imparting information or skills, or handling supplies or items, that are conducive to the prevention and control of the specified disease.

14. Other than the 12 gatherings above, permissions may also be given by the Chief Secretary for Administration ("CS") on a case-by-case basis if the group gathering concerned is either necessary for governmental operation, or because of the exceptional circumstance of the case, otherwise serves the public interest of Hong Kong. So far, CS has permitted group gatherings in five individual cases.

15. We would expand the scope of exemptions to the following –

- (a) **Court and Judiciary operations:** to expand the existing exemption as set out in para. 13(7) to also cover the performance of any function of a judge or judicial officer as well as the conduct of any other business of the Judiciary;
- (b) **Wedding ceremonies:** to increase the maximum number of persons from 20 to 50 for the exemption in relation to wedding ceremony as set out in para. 13(10);
- (c) **Meetings:** to expand the exemption in para. 13(11) to cover shareholders' meeting of a listed company that is held in accordance with any Ordinance or other regulatory instrument. These gatherings may be held subject to no food or drink being served and (for a group

gathering of more than 50 persons), measures being in place for separating the persons in different rooms or partitioned areas, each accommodating not more than 50 persons. This expanded exemption will cover both Annual General Meetings and Extraordinary General Meetings of listed companies; and

- (d) **Interface between the Prevention and Control of Disease (Requirements and Directions) (Business and Premises) Regulation (Cap 599F) and the Regulation:** to add a new exemption of group gathering at any premises that are allowed to be opened *or* reopened and to which a direction issued under section 8 of Cap. 599F.

16. The Secretary for Food and Health (“SFH”) has also specified a period of 14 days from 8 to 21 May 2020 for the purpose of section 3(1) of the Regulation. The specification of SFH is at Annex C. The specification was gazetted on 5 May 2020 and will come into effect on 8 May 2020 at the same time as the Amendment Regulation. Further, the Regulation will expire on 28 June 2020. We shall review the need to extend this Regulation nearer the time and update the exemption list if necessary.

OTHER OPTIONS

17. There is no other appropriate option that may enable the implementation of the measures as proposed under the Amendment Regulation.

THE AMENDMENT REGULATION

18. The main provisions of the Amendment Regulation are as follows –

- (a) section 3 amends the definition of ***group gathering*** in section 2 of the Regulation to relax the number of persons constituting a “group gathering” to more than 8;
- (b) section 4 amends section 10(2) of the Regulation correspondingly to relax the total number of participants of gatherings that may be dispersed to more than 8; and
- (c) section 5 amends Schedule 1 to the Regulation mainly to broaden the scope of exemptions.

LEGISLATIVE TIMETABLE

19. The legislative timetable is as follows –

Publication in the Gazette	5 May 2020
Commencement	8 May 2020
Tabling at the Legislative Council	13 May 2020

IMPLICATIONS OF THE PROPOSAL

20. The proposal is in conformity with the Basic Law, including the provisions concerning human rights.

PUBLIC CONSULTATION

21. Given the exigency of the situation, public consultation is not feasible.

PUBLICITY

22. We have issued a press release and announced the legislative amendments as well as relaxation of other social distancing measures at a press conference on 5 May 2020. A spokesperson has been made available to respond to public or media enquiries.

BACKGROUND

23. Section 8 of the Ordinance empowers the Chief Executive in Council to make public health emergency regulation for the purposes of preventing, combating or alleviating the effects of a public health emergency and protecting public health. Among others, the occurrence of a novel infectious disease or the imminent threat of an epidemic that has a high probability of causing large number of deaths or serious disabilities (whether or not long-term) constituted a public health emergency.

ENQUIRIES

24. For enquiries on this brief, please contact the Food and Health Bureau at 3509 8765.

Food and Health Bureau
9 May 2020

Prevention and Control of Disease (Prohibition on Group Gathering) (Amendment)
(No. 2) Regulation 2020

Section 1

1

**Prevention and Control of Disease (Prohibition on
Group Gathering) (Amendment) (No. 2) Regulation
2020**

(Made by the Chief Executive in Council under section 8 of the Prevention
and Control of Disease Ordinance (Cap. 599))

1. Commencement

This Regulation comes into operation on 8 May 2020.

**2. Prevention and Control of Disease (Prohibition on Group
Gathering) Regulation amended**

The Prevention and Control of Disease (Prohibition on Group
Gathering) Regulation (Cap. 599 sub. leg. G) is amended as set out
in sections 3, 4 and 5.

3. Section 2 amended (interpretation)

Section 2, definition of *group gathering*—

Repeal

“4”

Substitute

“8”.

**4. Section 10 amended (power to disperse prohibited group
gathering etc.)**

Section 10(2)—

Repeal

“4”

Prevention and Control of Disease (Prohibition on Group Gathering) (Amendment)
(No. 2) Regulation 2020

Section 5

2

Substitute

“8”.

5. Schedule 1 amended (exempted group gatherings)

(1) Schedule 1—

Repeal item 7

Substitute

“7. Group gathering for—

- (a) the conduct of proceedings in a court,
magistrates’ court or tribunal;
- (b) the performance of any function of a judge or
judicial officer; or
- (c) the conduct of any other business of the
Judiciary”.

(2) Schedule 1, item 10—

Repeal

“20”

Substitute

“50”.

(3) Schedule 1—

Repeal item 11

Substitute

“11. Group gathering during any of the following meetings at
which no food or drink is served and, in the case of a
group gathering of more than 50 persons, measures are in
place for separating them in different rooms or partitioned
areas, each accommodating not more than 50 persons—

- (a) a meeting of a body that must be held within a specified period in order to comply with any Ordinance or other regulatory instrument that governs the operation of the body or its business;
 - (b) a shareholders' meeting of a company listed on a recognized stock market (as defined by section 1 of Part 1 of Schedule 1 to the Securities and Futures Ordinance (Cap. 571)) that is held in accordance with any Ordinance or other regulatory instrument that governs the operation of the company or its business".
- (4) Schedule 1, after item 12—
Add
"13. Group gathering at any premises to which a direction issued under section 8 of the Prevention and Control of Disease (Requirements and Directions) (Business and Premises) Regulation (Cap. 599 sub. leg. F) applies, except premises that, according to the direction, must be closed".

Clerk to the Executive Council

COUNCIL CHAMBER

2020

Explanatory Note

The Prevention and Control of Disease (Prohibition on Group Gathering) Regulation (Cap. 599 sub. leg. G) (*principal Regulation*) prohibits the taking place of a “group gathering” (i.e. a gathering of more than 4 persons), other than one being exempted or permitted, in a public place during a specified period. It also provides for the power of authorized officers to disperse gatherings in a public place that are less than 1.5 m apart if the total number of participants is more than 4.

2. This Regulation—
- (a) amends the definition of *group gathering* in section 2 of the principal Regulation to relax the number of persons constituting a “group gathering” to more than 8;
 - (b) amends section 10(2) of the principal Regulation correspondingly to relax the total number of participants of gatherings that may be dispersed to more than 8; and
 - (c) amends Schedule 1 to the principal Regulation mainly to broaden the exemptions.

Annex B

To contain the spread, the Government has taken resolute actions to control arrivals at the Hong Kong International Airport (“HKIA”) and impose more stringent social distancing measures. Specifically -

- (a) The Government has since 25 March 2020 implemented the following measures to restrict entry and suspend all transit services at HKIA until further notice –
 - (i) All non-Hong Kong residents coming from overseas countries and regions by plane have been denied entry to Hong Kong;
 - (ii) Non-Hong Kong residents coming from the Mainland, Macao and Taiwan have been denied entry to Hong Kong if they have been to any overseas countries or regions in the past 14 days;
 - (iii) All transit services at HKIA have been suspended; and
 - (iv) All travellers coming from Macao and Taiwan, including Hong Kong and non-Hong Kong residents, have been subject to a 14-day compulsory quarantine, which is the same as the arrangements for people entering Hong Kong from the Mainland;
- (b) The Government published in the Gazette on 19 March 2020 the Compulsory Quarantine of Persons Arriving at Hong Kong from Foreign Places Regulation (Cap. 599E), which introduced a system of mandatory quarantine for persons coming from or having stayed in the past 14 days in specified places outside China;
- (c) The Government published in the Gazette on 27 March 2020 the Prevention and Control of Disease (Requirements and Directions) (Business and Premises) Regulation (Cap. 599F) which empowers the Secretary for Food and Health to, having regard to the disease outbreak and overall situation, issue directions through a notice in the Gazette to
 - (i) require catering business premises to cease selling or supplying food or drinks for on-site consumption, and to

- close whole or part of the premises where food or drink is sold or supplied for on-site consumption;
- (ii) restrict the operation of catering businesses; and
 - (iii) restrict the operation of Scheduled Premises¹.

The latest directions issued under this regulation was made on 5 May 2020 and will expire on 21 May 2020; and

- (d) The Government further published in the Gazette on 28 March 2020 the Prevention and Control of Disease (Prohibition on Group Gathering) Regulation (Cap. 599G) to prohibit group gatherings in public places. The latest specification made under this regulation was made on 5 May 2020 and will expire on 21 May 2020.

¹ Scheduled premises include amusement game centre, bathhouse, fitness centre, place of amusement, party room, beauty parlour, club-house, club or nightclub, karaoke establishment, mahjong-tin kau premises and massage establishment.

G.N. (E.) 40 of 2020

**PREVENTION AND CONTROL OF DISEASE (PROHIBITION ON GROUP
GATHERING) REGULATION**

I hereby exercise the power conferred on me by section 4(1) of the Prevention and Control of Disease (Prohibition on Group Gathering) Regulation (Chapter 599, sub. leg. G) to specify, with effect on 8 May 2020, the period of 14 days from 8 May 2020 to 21 May 2020 for the purposes of section 3(1) of that Regulation.

5 May 2020

Secretary for Food and Health