

# LEGISLATIVE COUNCIL BRIEF

## Prevention and Control of Disease Ordinance (Cap. 599)

### PREVENTION AND CONTROL OF DISEASE (REGULATION OF CROSS-BOUNDARY CONVEYANCES AND TRAVELLERS) REGULATION

### PREVENTION AND CONTROL OF DISEASE (WEARING OF MASK) (PUBLIC TRANSPORT) REGULATION

### PREVENTION AND CONTROL OF DISEASE (PROHIBITION ON GROUP GATHERING) (AMENDMENT) (NO. 7) REGULATION 2020

## INTRODUCTION

At the meeting of the Executive Council on 13 July 2020, the Council **ADVISED** and the Chief Executive **ORDERED** that the following three regulations should be made under section 8 of the Prevention and Control of Disease Ordinance (Cap. 599) (the Ordinance) for the purpose of preventing, combating or alleviating the current public health emergency and protecting public health in Hong Kong –

- Annex A
- (a) the **Prevention and Control of Disease (Regulation of Cross-boundary Conveyances and Travellers) Regulation** (at Annex A) to empower the Government to impose suitable conditions for inbound conveyances (flights or ships) and travellers to comply with aiming at reducing the infection risks of their passengers;
- Annex B
- (b) the **Prevention and Control of Disease (Wearing of Mask) (Public Transport) Regulation** (at Annex B) to mandate the wearing of masks on public transport as measures to prevent spread of infection through our public transport system; and
- Annex C
- (c) the **Prevention and Control of Disease (Prohibition on Group Gathering) (Amendment) (No. 7) Regulation 2020** (at Annex C) to amend the Prevention and Control of Disease (Prohibition on Group Gathering) Regulation (Cap. 599G) to decrease the number

of persons constituting a “group gathering” prohibited, or gatherings that may be dispersed, from more than 50 to more than four and to tighten the scope of exempted group gatherings in the “suppress” mode under our “suppress and lift” strategy.

## **JUSTIFICATIONS**

### **Latest Global Situation**

2. As of 12 July 2020, a total of 218 countries, territories or areas, including the Mainland China, had reported 12.64 million COVID-19 cases with about 563 000 deaths (global case fatality rate about 4.46%). The number of cases had been on a rapid and continuous rising trend since early March. From late March 2020 to mid-May 2020, about 70 000 to 100 000 new cases had been reported every day. The number of cases had further increased to about 160 000 to 180 000 new cases per day in late June 2020 and up to 220 000 new cases per day in early July 2020.

3. Of note, the number of new cases in the Americas, South-East Asia and Eastern Mediterranean has been increasing rapidly while that in Europe and Western Pacific countries is stabilising. In the Americas, the number of cases in South American countries has increased sharply since May 2020. There has also been resurgence of cases in the United States since late June 2020.

4. Globally, in the past two weeks, the incidence<sup>1</sup> in 91 countries or areas remained at a very high level with more than 100 new cases per million population.

### **Latest Situation in the Mainland**

5. By late April to early May 2020, the number of cases in the Mainland had decreased to a very low level with less than five cases on most days. However, local outbreaks had occurred in Heilongjiang in April 2020 and Jilin in May 2020, involving 77 cases and 43 cases respectively. Since mid-June 2020, Beijing has been experiencing a large local outbreak related to the Xinfadi Wholesale Market. The first case was reported on 11 June 2020, with a total of 335 cases reported up to 5 July 2020. No new cases were reported in Beijing in the past week (6 to 12 July 2020).

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<sup>1</sup> Number of newly reported cases in the past two weeks divided by the population size in million.

6. In the past four weeks (15 June to 12 July 2020), 165 cases were reported in other provinces/cities in the Mainland. Among the 165 cases, 142 cases were imported cases. For the remaining 23 cases, 20 were related to the outbreak in Beijing (reported in Hebei, Liaoning, Sichuan, Tianjin and Zhejiang). The other three cases occurred in Hebei (two local cases) and Shanghai (an import-related case).

7. In Macao, the last case of local infection was reported on 28 March 2020, who was a close contact of an imported case. Since then, all the reported cases had been imported cases. As of 12 July 2020, a total of 46 cases had been reported in Macao. The 45<sup>th</sup> and 46<sup>th</sup> cases were reported on 9 April 2020 and 26 June 2020 respectively.

### **Latest Local Situation**

8. As of 12 July 2020, the Centre for Health Protection (CHP) of the Department of Health (DH) had recorded a total of 1 470 cases of COVID-19, including 1 469 confirmed cases and one probable case. The cases included 788 males and 682 females ranging from 40 days to 96 years in age (median age is 36 years).

9. There had been a resurgence of cases since mid-June 2020. While the majority of those cases was imported cases in late June and early July 2020, a significant number of local cases have been reported since the second week of July 2020. On the cases, 112 of the 144 cases (77.8%) reported in the two weeks from 25 June to 8 July 2020 involved travel history outside Hong Kong during the incubation period. The majority of these imported cases involved Hong Kong residents (HKR) returnees<sup>2</sup> stranded earlier in places with very high risk of infections (high-risk places) (see paragraph 11 below), as well as foreign domestic helpers (FDHs) coming from the Philippines and Indonesia.

10. On the resurgence of local cases, 201 cases had been reported in the past week (6 to 12 July 2020), including 141 cases of locally acquired infections. 117 of the 141 cases involved clusters of different settings such as local restaurants, residential care home for the elderly, school, tutorial centre, retail cosmetic store, etc. 12 of the 141 cases involved taxi drivers, and six of the taxi drivers also visited local restaurants with known clusters. The majority of cases reside in Kowloon East areas, Wong Tai Sin in

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<sup>2</sup> At present there is an entry ban on non-HKR except for exempted persons (e.g. air crews or sea crews) or imported labour to be issued with work visas (e.g. Foreign Domestic Helpers) and so only HKR may enter Hong Kong from overseas.

particular. Nevertheless, cases were reported in various districts in Hong Kong. The source of infection could not be identified in many of the cases. It signifies that there might be silent/subclinical local transmission ongoing in the community, which cannot be picked up by the surveillance system as the patients may be asymptomatic or have mild symptoms. The risk of major community outbreaks is now the highest since the emergence of the epidemic in Hong Kong.

## **Situation of Returnees from High-risk Places and Capacity of Quarantine Facilities**

### *Returnees from high-risk places*

11. Starting from late April 2020, groups of HKRs, who had been stranded in Pakistan, India, Bangladesh, Nepal and South Africa due to local lock-downs, had been returning to Hong Kong. DH had assessed the public health risks of these five places and considered such risks to be very high, with their situation deteriorating markedly in the past two months, where there has been high case incidence in recent weeks and low testing rate in most places. Between 29 April and 8 July 2020, there were a total of 6 333 HKR returnees from the five high-risk places, among them 190 were confirmed COVID-19 cases.

### *Capacity of quarantine facilities*

12. Under existing practice, close contacts of confirmed cases and returnees from high-risk places are required to undergo compulsory quarantine for 14 days at QCs.

13. As at 9 July 2020, there were four QCs with about 2 200 quarantine units available, including the 1 647 units at Chun Yeung Estate (CYE). The Government had earlier pledged to cease QC operation and return the CYE site to the Housing Department. On the other hand, additional QC units are under construction at Penny's Bay and would be available by two batches in late July 2020 (800 units) and September 2020 (700 units) respectively. These new units, however, would not be able to fully replace the units currently available at CYE.

### *Flights for returning HKRs from high-risk places*

14. The Government has been closely liaising with the relevant Consuls Generals (CGs) and leaders of concerned communities to arrange the return of stranded HKRs from the high-risk places in an orderly manner via

chartered or specially-arranged flights, which require case-by-case coordination so as not to overwhelm our public health and healthcare systems. Between 30 April and 5 July 2020, 15 such flights had been arranged, bringing back a total of 2 929 HKRs from these places. However, given the large number of HKRs still stranded in these places and their resolution to return to Hong Kong early, while all direct flights between Hong Kong and these high-risk places have been suspended due to local lock-downs at the moment, an increasing number of returnees have been finding their way back to Hong Kong on indirect routes by taking commercial flights via other international aviation hubs.

15. Without the measured approach afforded by organised chartered or specially-arranged flights, the influx of returnees from high-risk places via commercial flights that the Government had little control over has been putting serious strain not only on QC capacity, but also on public hospital isolation capacity as a result of the high case incidence among these returnees. Notwithstanding the infection control and quarantine measures applied, a high number of infected returnees from high-risk places would also likely increase the risk of local infections.

16. Between 6 and 15 July 2020, there were about 1 250 returnees from high-risk places. And there is still a long list of requests for chartered or specially-arranged flights already received from concerned CGs and community groups, expecting to carry at least 3 500 HKRs back as early as possible. While the Government will continue to engage the concerned CGs and community groups to arrange the return of HKRs in a controlled and orderly manner, without the ability to manage the influx of returnees taking commercial flights on their own, there will be a very real possibility of our QC capacity and healthcare system being overwhelmed.

### **Other Expected Pressure on Public Health and Healthcare Capacities from Inbound Arrivals**

17. Besides returnees from high-risk places, there are other groups of incoming travellers that may present Hong Kong's public health and healthcare systems with significant pressure. For example, there is a sizable number of FDHs who are expected to be coming or returning to Hong Kong. Between 27 June and 10 July, there had been 11 number of FDH coming to Hong Kong that had been COVID-19 confirmed cases. While the Government had announced on 7 July 2020 to require FDHs to be quarantined outside of their employers' homes, given the confined living

spaces in most homes in Hong Kong, and the incidence rate observed so far, a large influx of FDHs would present significant challenge to our healthcare systems.

18. Meanwhile, in the past two weeks, different groups of exempted persons under the Compulsory Quarantine of Persons Arriving at Hong Kong from Foreign Places Regulation (Cap. 599E), including sea crew coming through Hong Kong for crew change, or air crew, had also had nine of confirmed cases. In addition, the recent upsurge of local cases as detailed in paragraph 10 above also necessitate the quarantine of a large number of close contacts of confirmed cases at QCs. During the period of 2 to 11 July 2020, 422 such persons have been transferred to QCs. As contact tracing of local cases continue in the coming days, we expect that an increasing number of people would be identified as close contacts and hence would require quarantine at our QCs, putting further strain on our QC capacity.

19. Apart from our tight QC capacity, each confirmed case regardless of its source would be admitted to one of our public hospitals for isolation and treatment. The resurgence of local cases since early July 2020 has put significant pressure on isolation facilities of our public hospitals. From 1 July to 10 July, the occupancy rate of isolation rooms in public hospitals had surged from around 59.5% to 68.0%. While the Hospital Authority has implemented different measures to alleviate the pressure, it is expected that the capacity of public hospitals would be further stretched to limit in view of the persistent number of imported cases and the surge of local infections.

## **REGULATIONS UNDER CAP. 599**

### ***(a) The Prevention and Control of Disease (Regulation of Cross-boundary Conveyances and Travellers) Regulation (the Conveyances and Travellers Regulation)***

20. Notwithstanding the public health risks that the different groups of incoming travellers, including HKRs, may present to Hong Kong, it is not the Government's intention to block their entry into the city, but rather to identify ways to better manage and control the inflow, so as to ensure that our public health and healthcare systems are not overwhelmed by uncontrollable influxes.

21. Imposing a COVID-19 testing requirement on travellers prior to their departure for Hong Kong is considered to be one of the possible and effective ways to safeguard our community against the public health risk that relevant groups of travellers may bring as they enter Hong Kong. Pre-boarding tests for cross-boundary conveyances, aircrafts and vessels, would not only help ensure that travellers entering Hong Kong would unlikely to be infected, but also effectively safeguard the wellbeing of other travellers and crew of the conveyance as well as workers at the airport or port with whom the travellers may come into contact, by avoiding the possibility of transmission during the journey.

22. At present the Government may administratively seek the cooperation of operators of conveyances to help collect the necessary document/proof of such pre-departure COVID-19 test arrangements. However, to safeguard the integrity of our public health and healthcare systems, it is considered necessary to have the legal backing for these regulatory measures to exert greater deterrent effect, as well as appropriate sanctions should there be non-compliance with the requirements. As such, we consider there is a need for the Government to make the Conveyances and Travellers Regulation for introducing the regulatory regime for cross-boundary conveyances arriving at Hong Kong and persons on those conveyances.

## **Regulatory Regime**

### *Specification by the Secretary for Food and Health (SFH)*

23. The regulatory regime empowers SFH, by notice published in the Gazette, to impose conditions based on public health grounds for relevant travellers on the conveyance (for the purpose of the regulation not delineated by their identities and functions on the conveyances) coming from or who had stayed in any specified places during the 14 days before boarding on the conveyance. This will provide the legal backing for requiring travellers who came from high-risk places on a flight (regardless of where that flight depart from) to have a negative COVID-19 test result to be produced before boarding on the flight. The regime also provides for flexibility for the Government to specify and impose conditions on a specific group of persons, either in conjunction with where they come from, or solely by reference to their trades or functions.

24. As a deterrence to non-compliance with the conditions as specified by SFH and with a view to enhancing cooperation of the operators of conveyance, if any condition specified by SFH is not met in relation to any relevant traveller on the specified type of conveyance, the regulatory regime empowers health officers or authorised officers to prohibit the conveyance from –

- (a) landing in Hong Kong (in the case of an aircraft);
- (b) entering or staying in the waters of Hong Kong (in the case of a vessel);
- (c) staying in Hong Kong except at a place specified by the officer;
- (d) leaving the specified place under (c);
- (e) the embarkation of any person on, or the disembarkation of any person from, the conveyance except with the permission of the officer; or
- (f) the loading on, or the unloading from, the conveyance of any article except with the permission of the officer.

25. To ensure the operator of conveyance complies with the regulatory requirements, a health officer or an authorised officer may require the operator to provide information confirming the compliance with the specified conditions, the travel record of the conveyance or the health condition of the people thereon if available. That said, apart from collecting and checking the very basic information provided by travellers (e.g. ensuring the COVID-19 test result is shown negative) during the check-in process, the operators of conveyances will not be held responsible for ensuring the authenticity and factual accuracy of the information collected.

26. As for travellers, health officers or authorised officers may also require all persons arriving at Hong Kong to provide information on the health condition of the person, or the travel history of the person or any matter concerning SFH's conditions to ensure compliance, including the authenticity and accuracy of the information pertaining to the COVID-19 test result presented. The travellers will be liable for providing authentic and accurate information.

#### *Other powers of Health Officers and Authorised Officers*

27. Apart from the above, the regulatory regime also empowers health officers and authorised officers to exercise their powers in paragraph 24 above so long as a health officer reasonably suspects that there is on board the conveyance any person who has contracted COVID-19 or has been, or is likely to have been, exposed to a significant risk of contracting COVID-19.



## *Sanctions*

28. Any person who fails to comply with the conditions or requirements of the regulatory measures commits an offence. If the operator of a conveyance commits an offence, he/she is liable on conviction to a fine at level 5 and to imprisonment for six months. As for a traveller, he/she is liable on conviction to a fine at level 3 and to imprisonment for six months if he/she contravenes the prohibition to embark on or disembark from a conveyance or to a fine at level 3 and to imprisonment for six months if he/she fails to comply with the requirement to make a declaration in paragraph 26 or knowingly or recklessly provides any false information in a material particular.

### ***(b) The Prevention and Control of Disease (Wearing of Mask in Public Transport) Regulation (the Mask Wearing Regulation)***

29. Quite a number of overseas jurisdictions (for instance Singapore and Germany) have made wearing of masks compulsory in public places, including public transport systems. The Government of the Macao Special Administrative Region announced on 3 February 2020 that masks must be worn for passengers to board a bus. In Hong Kong, while wearing of masks on public transport is voluntary, a person must wear a mask at any time within any catering business and scheduled premises, except when the person is consuming food or drink, exercising, taking a bath/shower, receiving facial treatment, etc. under the directions issued by SFH pursuant to the Prevention and Control of Disease (Requirements and Directions) (Business and Premises) Regulation (Cap. 599F). Given that the confined and crowded environment on public transport, the public health risks therein would be similar to those premises under Cap. 599F hence there is a case to mandate mask-wearing on public transport.

30. In addition, as set out in paragraph 10 above, a significant cluster of local cases involved taxi drivers (12 cases between 6 July and 12 July 2020). This raises alarm as public transport drivers/operators including taxi drivers come into close contact with large number of passengers<sup>3</sup> usually in very confined environments. It is necessary to step up infection control measures to minimise the risks of spread of infection through our public transport system. Among other things, the wearing of masks is an effective preventive measure. We would therefore require all persons including drivers, crews and passengers to wear a mask while boarding or on board a public transport

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<sup>3</sup> Every day, about 12.9 million passenger journeys are made on our public transport system which includes railways, trams, buses, minibuses, taxis and ferries as at end December 2018.

carrier. In addition, any person entering or staying inside the paid area of the MTR would also be required to wear a mask giving that most MTR stations are confined and usually very crowded places. The requirement would cover all modes of public transport (franchised, licensed or otherwise), as well as the Peak Tram and the Tung Chung cable car (i.e. Ngong Ping 360). Failure of any person to comply with the mask-wearing requirement or with the request given by authorised officers to leave the carrier/premises when the person refuses to put on a mask constitutes an offence and is liable to a fine at level 2. Reasonable excuse for some persons not to wear a mask due to exceptional circumstances has been provided under the Mask Wearing Regulation.

***(c) The Prevention and Control of Disease (Prohibition on Group Gathering) (Amendment) (No. 7) Regulation 2020 (the Prohibition on Group Gathering Amendment Regulation)***

31. Having regard to the resurgence of local cases set out in paragraph 10 above, we are of the view that the current public health risk level is the highest it has ever been since the start of the epidemic earlier this year. In response, we would tighten our social distancing measures, with the measures in place in late March/early April 2020 as a benchmark. Specifically, under Cap. 599G, we would decrease the number of persons permitted in public gatherings from 50 to four, i.e. the number adopted when Cap. 599G was first introduced. This should provide a clear signal to the public that we need to be extremely vigilant in light of the development of the epidemic situation.

32. We would also amend the list of 14 types of exempted group Annex D gatherings set out in Schedule 1 to Cap. 599G (at Annex D) to –

- (a) re-introduce a maximum number of 20 participants for wedding ceremonies where no food or drink is served (previously exemption item 10 obviated by the 50-people limit);
- (b) reduce the number of persons allowed in each partitioned area at an annual general meeting or extraordinary general meeting from 50 to 20; and
- (c) Remove the exemption for religious activities held at religious premises (item 14).

## **THE REGULATIONS**

33. The main provisions of the three regulations are set out below –

### **The Conveyances and Travellers Regulation**

- (a) **Section 3** provides for the regulatory measures and the circumstances in which they may be imposed;
- (b) **Section 4** provides for criminal sanctions against non-compliance with the regulatory measures;
- (c) **Section 5** empowers SFH to make specifications for the purpose of section 3;
- (d) **Section 6** provides that operators of conveyances must provide certain information as required;
- (e) **Section 7** provides that people arriving at Hong Kong must provide certain information as required;
- (f) **Section 8** makes provision for authorised officers; and
- (g) **Section 9** prescribes the expiry date of the Conveyances and Travellers Regulation.

### **The Mask Wearing Regulation**

- (a) **Section 4** imposes the requirement to wear a mask on a public transport carrier or in an MTR paid area;
- (b) **Section 5** provides for the powers of authorised persons if another person contravenes the requirement under section 4;
- (c) **Section 6** provides for offences; and
- (d) **Section 7** prescribes the expiry date of the Mask Wearing Regulation.

### **The Prohibition on Group Gathering Amendment Regulation**

**Sections 3 and 4** of the amendment regulation tighten the number of persons constituting a “group gathering”, and gathering that may be dispersed, from more than 50 to more than four. **Section 5** of the amendment regulation revises the exemptions relating to the three types group gatherings mentioned in paragraph 32(a), (b) and (c) above.

## **LEGISLATIVE TIMETABLE**

34. The legislative timetable is as follows –

Publication in the Gazette	14 July 2020
Commencement	15 July 2020
Tabling at the Legislative Council	15 July 2020

## **IMPLICATIONS OF THE PROPOSAL**

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

## **PUBLIC CONSULTATION**

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

## **PUBLICITY**

37. We have announced the three regulations together with other measures to combat the epidemic situation at a press conference on 13 July 2020 and issued press releases shortly afterwards. A spokesperson has also been made available to respond to public or media enquiries.

## **BACKGROUND**

38. The COVID-19 pandemic has caused an unprecedented health challenge across the globe. The absence of an effective treatment or a vaccine combined with an exponential growth in infections have led many countries/ places to implement measures with far-reaching implications, including temporary border closures or stringent control measures, restrictions on non-essential travel, confinement and quarantine arrangements, with the objective of preventing the transmission of the disease from other places, and worse still, leading to a major community outbreak. For Hong Kong, the Government has been implementing measures under the two-pronged strategy to reduce population mobility in and out of Hong Kong including imposing quarantine requirements on arrivals as well as to enhance social distancing in the community.

39. According to the World Health Organization, COVID-19 has been characterised as pandemic and may become just another endemic virus in our communities and this virus may never go away. As it is unrealistic to aim for eradication or elimination of the virus in the near future, countries and regions need to keep adjusting the intensity of their infection control measures taking account of their respective social and economic needs.

### ***The Ordinance***

40. Section 8 of the Ordinance empowers the Chief Executive in Council to make regulations on an occasion of a public health emergency for the purposes of preventing, combating or alleviating the effects of the 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 a large number of deaths or serious disabilities (whether or not long term) in the population constituted a public health emergency.

### ***Cap. 599G***

41. Cap. 599G was introduced in end March 2020 to prohibit group gathering of more than four persons in a public place during any period of not exceeding 14 days specified by SFH by a notice published in the Gazette, except for a list of exempted group gatherings. The Chief Secretary for Administration may permit certain group gatherings. The number of persons in a prohibited group gathering was increased to more than eight persons in early May 2020 and to more than 50 persons in early June 2020 as part of the relaxation measures implemented in view of the stabilisation of the epidemic situation then.

### **ENQUIRIES**

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

**Food and Health Bureau**  
**17 July 2020**

## Prevention and Control of Disease (Regulation of Cross-boundary Conveyances and Travellers) Regulation

(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 15 July 2020.

### 2. Interpretation

(1) In this Regulation—

*authorized officer* (獲授權人員) means an authorized officer appointed under section 8;

*conveyance* (交通工具) means any aircraft or vessel;

*operator* (營運人), in relation to a conveyance, means—

- (a) its owner, charterer, pilot in command or master;
- (b) the person in charge of it; or
- (c) a person who is acting as an agent of its owner or charterer or the person in charge of it;

*relevant traveller* (相關到港者), in relation to a specified conveyance, means a person on the conveyance—

- (a) who, on the day on which the person boarded the conveyance or during the 14 days before that day, has stayed in any specified place; or
- (b) who belongs to a type of persons specified under section 5(2);

*specified conveyance* (指明交通工具) means a conveyance that arrives at, or is about to arrive at, Hong Kong from a place outside Hong Kong;

*specified disease* (指明疾病) means the coronavirus disease 2019 (COVID-19), which is specified in item 8A of Schedule 1 to the Ordinance;

*specified place* (指明地區) means a place specified under section 5(3).

(2) If—

- (a) a person boarded, in a place, a conveyance that, after the person had boarded it, stopped in any other place that is a specified place (*stopover specified place*);
- (b) the person did not leave the conveyance in that stopover specified place; and
- (c) the person's journey on that conveyance ended subsequently outside that stopover specified place,

the person is not regarded, for the purposes of paragraph (a) of the definition of *relevant traveller* in subsection (1), as having stayed in that stopover specified place.

### 3. Health officers or authorized officers may exercise certain powers in relation to specified conveyances

(1) In relation to a specified conveyance—

- (a) a health officer, or an authorized officer acting on the advice of a health officer, may exercise any power prescribed in subsection (2) if any condition specified under section 5(1) is not met in relation to any relevant traveller on the conveyance; and
- (b) a health officer, or an authorized officer acting on the advice of a health officer, may exercise any power

prescribed in subsection (2) if the health officer reasonably suspects that there is on board the conveyance any person—

- (i) who has contracted the specified disease; or
- (ii) who has been, or is likely to have been, exposed to a significant risk of contracting the specified disease.

(2) A health officer, or an authorized officer acting on the advice of a health officer, may—

- (a) prohibit the conveyance from—
  - (i) for an aircraft—landing in Hong Kong;
  - (ii) for a vessel—entering or staying in the waters of Hong Kong;
- (b) prohibit the conveyance from staying in Hong Kong except in a place specified by a health officer or an authorized officer;
- (c) if the power under paragraph (b) has been exercised in relation to the conveyance—prohibit the conveyance from leaving the place specified under that paragraph;
- (d) prohibit the embarkation of any person on, or the disembarkation of any person from, the conveyance except with the permission of a health officer or an authorized officer; and
- (e) prohibit the loading on, or the unloading from, the conveyance of any article except with the permission of a health officer or an authorized officer.

#### 4. Offences relating to section 3

(1) If—

(a) a conveyance arrives at Hong Kong from a place outside Hong Kong; and

(b) any condition specified under section 5(1) is not met in relation to any relevant traveller on the conveyance,

each of the operators of the conveyance commits an offence and is liable on conviction to a fine at level 5 and to imprisonment for 6 months.

(2) It is a defence for a person charged with an offence under subsection (1) to establish that the person did not know, or could not with reasonable diligence have known, that the situation described in subsection (1)(b) constituting the alleged offence existed at the material time.

(3) If a prohibition under section 3(2)(a), (b), (c), (d) or (e) is contravened without reasonable excuse in relation to a conveyance, each of the operators of the conveyance commits an offence and is liable on conviction to a fine at level 5 and to imprisonment for 6 months.

(4) It is a defence for a person charged with an offence under subsection (3) to establish that the person did not know, or could not with reasonable diligence have known, that the act constituting the relevant contravention was done.

(5) A person who, without reasonable excuse, embarks on or disembarks from a conveyance in contravention of a prohibition under section 3(2)(d) commits an offence and is liable on conviction to a fine at level 4 and to imprisonment for 6 months.

**5. Secretary for Food and Health may specify conditions, places and types of persons**

- (1) For the purposes of sections 3(1) and 4(1), the Secretary for Food and Health (*Secretary*) may, by notice published in the Gazette, specify conditions for relevant travellers.
- (2) For the purposes of paragraph (b) of the definition of *relevant traveller* in section 2(1), the Secretary may, by notice published in the Gazette, specify any type of persons who, in the opinion of the Secretary, have been, or are likely to have been, exposed to a significant risk of contracting the specified disease because of their personal circumstances.
- (3) For the purposes of the definition of *specified place* in section 2(1), the Secretary may, by notice published in the Gazette, specify any place outside Hong Kong.
- (4) A notice published under subsection (1), (2) or (3) is not subsidiary legislation.
- (5) Before exercising the power conferred by subsection (1) or (3) in relation to a place or any person who has stayed in a place, the Secretary must have regard to—
  - (a) the extent of the spread of the specified disease in that place; and
  - (b) the public health risk posed to Hong Kong by persons who have stayed in that place.
- (6) A condition specified under subsection (1) must relate to the prevention and control of the specified disease or protection of public health.
- (7) Different conditions may be specified under subsection (1) for different types of relevant travellers.

- (8) For the purposes of subsection (7), relevant travellers arriving on different types of conveyances are different types of relevant travellers.

**6. Operators must provide information as required**

- (1) A health officer, or an authorized officer acting on the advice of a health officer, may require an operator of a specified conveyance to provide, in a form specified by a health officer, any information concerning—
  - (a) the meeting of the conditions specified under section 5(1) for the relevant travellers on the conveyance;
  - (b) the travel record of the conveyance; or
  - (c) the health condition of the persons on the conveyance.
- (2) An operator who fails to comply with a requirement made under subsection (1) commits an offence.
- (3) It is a defence for a person charged with an offence under subsection (2) to establish that the information required to be provided was not within the knowledge, in the possession or under the control of the person, and could not reasonably have been ascertained or obtained by the person.
- (4) An operator who, in purported compliance with a requirement made under subsection (1), knowingly or recklessly provides any information that is false or misleading in a material particular commits an offence.
- (5) A person who is convicted of an offence under subsection (2) or (4) is liable to a fine at level 5 and to imprisonment for 6 months.



**7. Relevant travellers must provide information as required**

- (1) A health officer, or an authorized officer acting on the advice of a health officer, may require a relevant traveller to provide, in a form specified by a health officer, any information concerning—
  - (a) the health condition of the traveller;
  - (b) the travel history of the traveller; or
  - (c) any matter concerning any condition specified under section 5(1) for the traveller.
- (2) A person who, without reasonable excuse, fails to comply with a requirement made under subsection (1) commits an offence.
- (3) A person who, in purported compliance with a requirement made under subsection (1), knowingly or recklessly provides any information that is false or misleading in a material particular commits an offence.
- (4) A person who is convicted of an offence under subsection (2) or (3) is liable to a fine at level 3 and to imprisonment for 6 months.

**8. Authorized officers**

- (1) The Director may appoint any public officer as an authorized officer for the purposes of this Regulation.
- (2) No personal liability is incurred by an authorized officer or a person acting under an authorized officer's direction in respect of anything done or omitted to be done by the officer or person in good faith in the performance or purported performance of a function under this Regulation.

**9. Expiry**

This Regulation expires at midnight on 14 October 2020.

Clerk to the Executive Council

COUNCIL CHAMBER

2020

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### **Explanatory Note**

The purpose of this Regulation is to establish a regime under which the Government may impose certain regulatory measures in relation to cross-boundary conveyances arriving at Hong Kong and certain persons on those conveyances.

2. Section 3 provides for the regulatory measures and the circumstances in which they may be imposed.
3. Section 4 provides for the criminal sanctions against non-compliance with the regulatory measures.
4. Section 5 empowers the Secretary for Food and Health to make specifications for the purposes of this Regulation.
5. Section 6 provides that operators of the conveyances must provide certain information as required.
6. Section 7 provides that relevant travellers must provide certain information as required.
7. Section 8 makes provision for authorized officers.
8. Section 9 prescribes the expiry date of this Regulation.

## Prevention and Control of Disease (Wearing of Mask) (Public Transport) Regulation

(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 15 July 2020.

### 2. Interpretation

(1) In this Regulation—

**mask** (口罩) includes any covering designed or made to be worn over the nose and mouth to provide the wearer protection against infections or air pollution;

**MTR paid area** (港鐵已付車費區域) means a paid area as defined by by-law 2 of the Mass Transit Railway By-laws (Cap. 556 sub. leg. B);

**public transport carrier** (公共交通工具) means a conveyance mentioned in the Schedule;

**specified disease** (指明疾病) means the coronavirus disease 2019 (COVID-19), which is specified in item 8A of Schedule 1 to the Ordinance;

**specified period** (指明期間) means a period specified under section 3(1).

(2) For the purposes of this Regulation—

(a) a reference to a person wearing a mask is a reference to the person wearing a mask over and covering the person's nose and mouth, with the mask touching the person's nose, chin and cheeks; and

(b) a reference to a person not wearing a mask is to be construed accordingly.

### 3. Period specified by Secretary for Food and Health

- (1) For preventing, protecting against, delaying or otherwise controlling the incidence or transmission of the specified disease, the Secretary for Food and Health may, by notice published in the Gazette, specify a period for the purposes of section 4(1).
- (2) Any period specified under subsection (1) must not exceed 14 days.
- (3) Any notice published under subsection (1) is not subsidiary legislation.

### 4. Requirement to wear mask in public transport carrier and MTR paid area during specified period

- (1) During a specified period, a person must wear a mask at all times when the person is—
  - (a) boarding or on board a public transport carrier; or
  - (b) entering or present in an MTR paid area.
- (2) However, subsection (1) does not apply to—
  - (a) a person who is under the age of 2;
  - (b) a person who has lawful authority or reasonable excuse for not wearing a mask; and
  - (c) a person who is—
    - (i) boarding or on board a public transport carrier that is not in service; or
    - (ii) entering or present in an MTR paid area that is not open to the public.

- (3) Without limiting the scope of the reasonable excuse referred to in subsection (2)(b), a person has a reasonable excuse for not wearing a mask if—
- (a) the person cannot put on, wear or remove a mask—
    - (i) because of any physical or mental illness, impairment or disability; or
    - (ii) without severe distress;
  - (b) the person is accompanying, or providing assistance to, another person who relies on lip reading to communicate with the person;
  - (c) it is reasonably necessary for the person not to wear a mask in order to avoid any physical harm to the person or others;
  - (d) it is reasonably necessary for the person to board or be on board a public transport carrier, or enter or be present in an MTR paid area, in order to avoid any physical harm to the person but the person does not have a mask;
  - (e) the person is not wearing a mask in order to do any of the following acts (only if the act is lawful and reasonably necessary in the circumstances)—
    - (i) eat or drink;
    - (ii) take medication;
    - (iii) maintain personal hygiene; or
  - (f) the person is required by a public officer (who is performing a function of the officer) to remove a mask the person is otherwise wearing.

#### 5. Powers exercisable if mask not worn

- (1) If an authorized person reasonably considers that another person (*that person*) is, in contravention of section 4(1), not wearing a mask, the authorized person may—
  - (a) if that person is boarding a public transport carrier or entering an MTR paid area—deny boarding to the carrier, or entry to the area, to that person; or
  - (b) if that person is on board a public transport carrier or present in an MTR paid area—
    - (i) require that person to wear a mask; and
    - (ii) if that person fails to comply with the requirement made under subparagraph (i)—require that person to disembark from the carrier or leave the area.
- (2) If a person fails to comply with a requirement made under subsection (1)(b)(ii) by a police officer, the police officer may—
  - (a) remove the person from the public transport carrier or MTR paid area; and
  - (b) use reasonable force in exercising the power under paragraph (a).
- (3) An authorized person may exercise a power under subsection (1)(b) or (2) only if the authorized person reasonably considers it necessary and proportionate to ensure compliance with section 4(1).
- (4) A person is not entitled to a refund of, or to deny the liability to pay, any transportation fee only because the person is, under subsection (1)(b) or (2)—
  - (a) required to disembark, or removed, from a public transport carrier; or
  - (b) required to leave, or removed, from an MTR paid area.

(5) The exercise of a power under subsection (1) by a taxi driver in good faith does not by itself constitute a contravention of regulation 37(a), (b) or (c) of the Road Traffic (Public Service Vehicles) Regulations (Cap. 374 sub. leg. D).

(6) In this section—

**authorized person** (獲授權人士)—

(a) in relation to a public transport carrier, means—

- (i) a police officer;
- (ii) the driver, conductor, inspector, ticket collector, manager or owner of the carrier; or
- (iii) a person authorized by the manager or owner of the carrier for the purposes of this section; and

(b) in relation to an MTR paid area, means—

- (i) a police officer;
- (ii) the MTR Corporation Limited; or
- (iii) a person authorized by the Corporation for the purposes of this section;

**manager** (管理人), in relation to a public transport carrier, means a person who is responsible for the management or is in charge or control of the carrier;

**taxi driver** (的士司機) means the driver of a taxi within the meaning of the Road Traffic Ordinance (Cap. 374);

**transportation fee** (交通費) means—

- (a) in the case of subsection (4)(a)—any money paid or charged for the carriage of the person by the public transport carrier; and
- (b) in the case of subsection (4)(b)—any money charged by the MTR Corporation Limited when the person leaves the

MTR paid area (whether or not for the carriage of the person).

## 6. Offences

- (1) A person who contravenes section 4(1) commits an offence and is liable on conviction to a fine at level 2.
- (2) A person who, without reasonable excuse, fails to comply with a requirement made under section 5(1)(b)(ii) commits an offence and is liable on conviction to a fine at level 2.

## 7. Expiry

This Regulation expires at midnight on 14 October 2020.

## Schedule

[s. 2]

### Public Transport Carriers

1. A public bus operated under a franchise granted under the Public Bus Services Ordinance (Cap. 230)
2. A public bus operated under a passenger service licence for the purposes of the following service under the Road Traffic Ordinance (Cap. 374)—
  - (a) a tour service;
  - (b) an international passenger service;
  - (c) a hotel service;
  - (d) a student service;
  - (e) an employees' service;
  - (f) a residents' service;
  - (g) a multiple transport service; or
  - (h) any other service approved by the Commissioner for Transport
3. A public light bus within the meaning of the Road Traffic Ordinance (Cap. 374)
4. A school private light bus within the meaning of the Road Traffic Ordinance (Cap. 374)
5. A private bus, or a private light bus, within the meaning of the Road Traffic Ordinance (Cap. 374) operated by The Hong Kong Society

for Rehabilitation, or by Kwoon Chung Inclusive and Accessible Transport Services Company Limited, for operating the Rehabus

6. A taxi within the meaning of the Road Traffic Ordinance (Cap. 374)
7. A train operated on the Mass Transit Railway under the Mass Transit Railway Ordinance (Cap. 556)
8. A train operated on the KCRC Railway within the meaning of section 2(1) of the Mass Transit Railway Ordinance (Cap. 556)
9. A light rail vehicle operated on the North-west Railway within the meaning of section 2(1) of the Mass Transit Railway Ordinance (Cap. 556)
10. A car used on the tramway under the Tramway Ordinance (Cap. 107)
11. A tramcar used on the tramway under the Peak Tramway Ordinance (Cap. 265)
12. A cable car within the meaning of the Tung Chung Cable Car Bylaw (Cap. 577 sub. leg. A)
13. Those parts of a ferry vessel operated under a franchise or a licence granted under the Ferry Services Ordinance (Cap. 104) opened, kept or used for or in connection with the carriage of passengers or to which the passengers have or are permitted to have access

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### Explanatory Note

This Regulation requires a person to wear a mask at all times on a public transport carrier (*carrier*) or in an MTR paid area (*area*) during any period specified by the Secretary for Food and Health.

2. The statutory requirement is subject to certain exemptions, including if the person has a reasonable excuse for not wearing a mask.
3. If a person contravenes the statutory requirement to wear a mask, an authorized person (which includes a police officer and the operator of the carrier) may exercise the following powers—
  - (a) to deny boarding to the carrier, or entry to the area, to the person;
  - (b) to require the person to wear a mask; and
  - (c) to require the person to disembark from the carrier or leave the area.
4. A person who contravenes the statutory requirement or, without reasonable excuse, fails to comply with a requirement made by an authorized person to disembark or leave commits a summary offence which is punishable by a fine at level 2 (i.e. \$5,000).

**Prevention and Control of Disease (Prohibition on  
Group Gathering) (Amendment) (No. 7) 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 15 July 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**

“50”

**Substitute**

“4”.

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

Section 10(2)—

**Repeal**

“50”

**Substitute**

“4”.

**5. Schedule 1 amended (exempted group gatherings)**

(1) Schedule 1, after item 9—

**Add**

“9A. Group gathering of not more than 20 persons during a  
wedding ceremony at which no food or drink is served”.

(2) Schedule 1, item 11—

(a) after “served and”—

**Add**

“, in the case of a group gathering of more than 20  
persons,”;

(b) **Repeal**

“50”

**Substitute**

“20”.

(3) Schedule 1—

**Repeal item 14.**



**Explanatory Note**

This Regulation amends the Prevention and Control of Disease (Prohibition on Group Gathering) Regulation (Cap. 599 sub. leg. G) (*principal Regulation*) to—

- (a) tighten the number of persons constituting a “group gathering” prohibited, or gatherings that may be dispersed, under the principal Regulation from more than 50 to more than 4; and
- (b) revise the exemptions under the principal Regulation in view of the tightening of the number.

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**Exempted Group Gatherings under Cap. 599G**  
*(as at 13 July 2020)*

Currently, Schedule 1 to Cap. 599G specifies the following 14 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 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
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. *(Repealed)*
11. Group gathering during any of the following meetings at which no food or drink is served and measures are in place for separating the participants in the gathering 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

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
13. Group gathering at any premises to which a direction issued under section 6 or 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
14. Group gathering during a religious activity (other than a wedding ceremony)—
  - (a) held at any premises constructed or regularly used as a place of worship (including a church, monastery or nunnery, mosque, synagogue or temple);
  - (b) in which no food or drink is served (except as part of a religious ritual); and
  - (c) in which measures are in place for restricting the number of participants in the activity to not more than 80% of the number of persons that may normally be accommodated on the premises as a place of worship.