

L.N. 31 of 2020

Prevention and Control of Disease (Requirements and Directions) (Business and Premises) Regulation

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Prevention and Control of Disease (Requirements and Directions) (Business and Premises) Regulation

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

Part 1

Preliminary

1. Commencement

This Regulation comes into operation on 28 March 2020.

2. Interpretation

In this Regulation—

manager (管理人), in relation to any premises, means the person who is responsible for the management or is in charge or control of the premises;

person responsible for carrying on a catering business (餐飲業務負責人), in relation to a catering business, includes the owner, proprietor and manager of the business;

scheduled premises (表列處所) means any premises set out in Part 1 of Schedule 2;

Secretary (局長) means the Secretary for Food and Health;

specified disease (指明疾病) means the disease specified in item 34AAA of Schedule 1 to the Ordinance.

Part 2

Requirements and Directions in Relation to Catering Business

- 3. Requirement to cease selling food or drink etc. during specified period**
- (1) A person responsible for carrying on a catering business must, during a period specified by the Secretary under section 4(1)—
 - (a) cease selling or supplying food or drink for consumption on the premises of the business; and
 - (b) close any premises, or part of the premises, on which food or drink is sold or supplied by the business for consumption on the premises.
 - (2) Subsection (1) applies despite any licence, approval, authorization, permit or exemption issued, given or granted under any Ordinance in relation to the business or the premises.
 - (3) Subsection (1) does not apply to—
 - (a) a catering business carried on at any premises set out in Part 1 of Schedule 1;
 - (b) a catering business designated under section 5(1); or
 - (c) a catering business falling within a category of catering businesses designated under section 5(1).
 - (4) For the purposes of subsection (1), food or drink sold or supplied by a hotel or guesthouse as part of room service is not to be regarded as being sold or supplied for consumption on the premises.

- (5) 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.
- (6) A person who, without reasonable excuse, contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 5 and to imprisonment for 6 months.
- (7) In subsection (4)—
guesthouse (旅館) has the meaning given by section 2(1) of the Hotel and Guesthouse Accommodation Ordinance (Cap. 349);
hotel (旅館) has the meaning given by section 2(1) of the Hotel and Guesthouse Accommodation Ordinance (Cap. 349).

4. Period specified by Secretary

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

5. Chief Secretary for Administration may designate certain catering business for section 3

- (1) The Chief Secretary for Administration (*Chief Secretary*) may designate any catering business or category of catering businesses for the purposes of section 3(3)(b) or (c) if satisfied that the carrying on of the business or category of businesses—
 - (a) is necessary for governmental operation; or
 - (b) because of the exceptional circumstances of the case, otherwise serves the public interest of Hong Kong.
- (2) The Chief Secretary may, if considered necessary, attach conditions to a designation.
- (3) The Chief Secretary may cancel a designation or vary a condition attached to a designation.
- (4) A designation, attachment of conditions, cancellation or variation under this section must be made in writing.

6. Directions of Secretary in relation to catering business

- (1) For preventing, protecting against, delaying or otherwise controlling the incidence or transmission of the specified disease, the Secretary may issue a direction imposing requirements or restrictions, for a period specified in the direction, in relation to any or all of the following—
 - (a) the mode of operation of any catering business that sells or supplies food or drink for consumption on its premises or any activity carried on at the premises;
 - (b) the closing of the premises, or part of the premises;
 - (c) the opening hours of the business on a day.
- (2) A period specified in any direction issued under subsection (1) must not exceed 14 days.

- (3) The Secretary may impose different requirements or restrictions for different categories or descriptions of catering businesses.
- (4) Any direction issued under subsection (1)—
 - (a) must be published in the Gazette; and
 - (b) is not subsidiary legislation.

7. Person responsible for carrying on a catering business must comply with directions of Secretary

- (1) A person responsible for carrying on a catering business must comply with any direction issued under section 6(1) that is applicable in relation to the business.
 - (2) A person who, without reasonable excuse, contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 5 and to imprisonment for 6 months.
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Part 3

Directions in Relation to Scheduled Premises

8. Directions of Secretary in relation to scheduled premises

- (1) For preventing, protecting against, delaying or otherwise controlling the incidence or transmission of the specified disease, the Secretary may issue a direction imposing requirements or restrictions, for a period specified in the direction, in relation to any or all of the following—
 - (a) the mode of operation of any business or activity carried on at any scheduled premises;
 - (b) the closing of any scheduled premises, or part of the scheduled premises;
 - (c) the opening hours of any scheduled premises on a day.
- (2) A period specified in any direction issued under subsection (1) must not exceed 14 days.
- (3) The Secretary may impose different requirements or restrictions for different categories or descriptions of scheduled premises.
- (4) Any direction issued under subsection (1)—
 - (a) must be published in the Gazette; and
 - (b) is not subsidiary legislation.

9. Manager of scheduled premises must comply with directions of Secretary

- (1) The manager of any scheduled premises must comply with any direction issued under section 8(1) that is applicable in relation to the premises.

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- (2) A manager who, without reasonable excuse, contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 5 and to imprisonment for 6 months.
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Part 4

Inspection Powers

10. Interpretation of Part 4

In this Part—

function (職能) includes power;

specified premises (指明處所) means—

- (a) any premises on which a subject catering business is carried on; or
- (b) any scheduled premises;

subject catering business (受規管餐飲業務) means a catering business to which Part 2 applies.

11. Appointment of inspectors

- (1) The Secretary may, in writing, appoint a public officer to be an inspector for the purposes of this Regulation.
- (2) An inspector must, if so required, produce written proof of his or her appointment before performing a function under this Part.
- (3) No personal liability is incurred by an inspector or a person acting under the inspector's direction in respect of anything done or omitted to be done by the inspector or person in good faith in the performance or purported performance of a function under this Part.

12. Powers of inspectors

- (1) An inspector may do any or all of the following for ascertaining whether section 3, or any direction issued under section 6(1) or 8(1), is being or has been complied with—

- (a) at any reasonable time enter and inspect any specified premises as the inspector considers necessary;
 - (b) require the manager of any specified premises—
 - (i) to produce a book, document or any other article in the manager's possession that relates to the operation or management of the premises or to any other activity in respect of the premises; or
 - (ii) to furnish any information in the manager's possession that relates to the operation, management or activity;
 - (c) inspect, examine and copy any such book, document or article;
 - (d) conduct any examination and inquiry that the inspector considers necessary;
 - (e) require any person to provide the inspector with the assistance or information in the person's possession which the inspector considers necessary to enable the inspector to perform a function under this Part.
- (2) If an inspector reasonably suspects that an offence has been committed by a person under Part 2 or 3, the inspector may do any or all of the following—
 - (a) require the person to give his or her name and address and to produce proof of identity;
 - (b) seize, remove or detain anything that appears to the inspector to be evidence of the offence;
 - (c) take samples of anything that the inspector may reasonably require for analysis.

13. Obstruction of inspectors etc. prohibited

- (1) A person must not delay, obstruct, hinder or molest an inspector who is performing a function under this Part.
 - (2) A person must comply with a requirement or request made by an inspector in the performance of a function under this Part.
 - (3) A person who, without reasonable excuse, contravenes subsection (1) or (2) commits an offence and is liable on conviction to a fine at level 3.
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Part 5

Expiry

14. Expiry

This Regulation expires at midnight on 27 June 2020.

Schedule 1

[s. 3]

Premises Set Out for Section 3(3)(a)

Part 1

Premises

Column 1	Column 2
Item	Type of premises
1.	Hospital
2.	Residential care home
3.	Treatment centre
4.	Boarding school
5.	Premises controlled or managed by the Government
6.	Premises that have been constructed to be used, and are used, as a private dwelling

Part 2

Interpretation

1. In this Schedule—

boarding school (寄宿學校) means a boarding school within the meaning of the Education Regulations (Cap. 279 sub. leg. A);

hospital (醫院) means a hospital within the meaning of section 4 of the Private Healthcare Facilities Ordinance (Cap. 633) or The Prince Philip Dental Hospital;

residential care home (護理院舍) means—

- (a) a residential care home in respect of which a licence, or a certificate of exemption, as defined by section 2 of the Residential Care Homes (Elderly Persons) Ordinance (Cap. 459) issued or renewed under that Ordinance is in force; or
- (b) a residential care home for persons with disabilities in respect of which a licence, or a certificate of exemption, as defined by section 2 of the Residential Care Homes (Persons with Disabilities) Ordinance (Cap. 613) issued or renewed under that Ordinance is in force;

treatment centre (治療中心) means a treatment centre within the meaning of the Drug Dependent Persons Treatment and Rehabilitation Centres (Licensing) Ordinance (Cap. 566) in respect of which a licence or a certificate of exemption under that Ordinance is in force.

Schedule 2

[s. 2]

Scheduled Premises

Part 1

Premises

Column 1	Column 2
Item	Type of premises
1.	Amusement game centre
2.	Bathhouse
3.	Fitness centre
4.	Place of amusement
5.	Place of public entertainment
6.	Premises (commonly known as party room) that are maintained or intended to be maintained for hire for holding social gatherings

Part 2

Interpretation

1. In this Schedule—

amusement game centre (遊戲機中心) means—

- (a) an amusement game centre within the meaning of section 2(1) of the Amusement Game Centres Ordinance (Cap. 435);
- (b) any place that is the subject of an order under section 3(1)(a) of that Ordinance; or
- (c) any area that is specified in an order under section 3(1)(b) of that Ordinance;

bathhouse (浴室) has the meaning given by section 3(1) of the Commercial Bathhouses Regulation (Cap. 132 sub. leg. I);

fitness centre (健身中心) means any premises on which one or 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—
 - (i) bodybuilding;
 - (ii) dancing;
 - (iii) yoga, pilates or body stretching; and
 - (iv) martial arts;

place of amusement (遊樂場所) includes—

- (a) a billiard establishment within the meaning of section 2(1) of the Public Health and Municipal Services Ordinance (Cap. 132);
- (b) a public bowling-alley within the meaning of that section; and
- (c) a public skating rink within the meaning of that section;

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place of public entertainment (公眾娛樂場所) has the meaning
given by section 2 of the Places of Public Entertainment
Ordinance (Cap. 172).

Wendy LEUNG
Clerk to the Executive Council

COUNCIL CHAMBER

27 March 2020

Explanatory Note

The object of this Regulation is to impose certain temporary measures in relation to catering business and certain premises in respect of the public health emergency concerning the disease specified in item 34AAA of Schedule 1 to the Prevention and Control of Disease Ordinance (Cap. 599).

2. The measures include—

- (a) imposing requirements on persons responsible for carrying on a catering business to cease selling or supplying food or drink for consumption on the premises of the business and to close any premises on which food or drink is sold or supplied for consumption on the premises during a period specified by the Secretary for Food and Health (*Secretary*);
- (b) empowering the Secretary to issue directions imposing requirements or restrictions, for a period specified by the Secretary, in relation to the mode of operation of a catering business and any activity carried on at the premises of the business, the closing of the premises, and the opening hours of the business on a day; and
- (c) empowering the Secretary to issue directions imposing requirements or restrictions, for a period specified by the Secretary, in relation to the closing of any premises set out in Part 1 of Schedule 2 to the Regulation (*scheduled premises*), the mode of operation of any business or activity carried on at any scheduled premises, and the opening hours of any scheduled premises on a day.

3. Each period that may be specified by the Secretary must not exceed 14 days.
4. A person responsible for carrying on a catering business commits an offence if the person, without reasonable excuse, fails to comply with any requirement referred to in paragraph 2(a), or any direction referred to in paragraph 2(b) that is applicable in relation to the business. The manager of any scheduled premises commits an offence if the manager, without reasonable excuse, fails to comply with any direction referred to in paragraph 2(c) that is applicable in relation to the scheduled premises.