

L.N. 142 of 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.

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and Travellers) Regulation

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Section 9

B2661

9. Expiry

This Regulation expires at midnight on 14 October 2020.

Wendy LEUNG
Clerk to the Executive Council

COUNCIL CHAMBER

13 July 2020

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.