

LEGISLATIVE COUNCIL BRIEF

Prevention and Control of Disease Ordinance (Cap. 599)

PREVENTION AND CONTROL OF DISEASE AMENDMENT REGULATIONS

INTRODUCTION

At the meeting of the Executive Council on 27 April 2021, the Council **ADVISED** and the Chief Executive **ORDERED** that the following amendment regulations (“Amendment Regulations”) should be made under section 8 of the Prevention and Control of Disease Ordinance (Cap. 599) (“the Ordinance”) having regard to the latest development in the epidemic situation for the purpose of preventing, combating or alleviating the effects of the current public health emergency and protecting public health in Hong Kong –

(a) the **Prevention and Control of Disease (Requirements and Directions) (Business and Premises) (Amendment) (No. 2) Regulation 2021** (at Annex A), which amended the Prevention and Control of Disease (Requirements and Directions) (Business and Premises) Regulation (Cap. 599F) to –

- (i) require persons who enter, or are present on, any premises of a catering business that sells or supplies food or drink for consumption on its premises (“catering business premises”) or any scheduled premises to comply with directions issued by the Secretary for Food and Health (“SFH”) under Cap. 599F;
- (ii) create offences of contravening the requirement in sub-paragraph (a)(i) above;
- (iii) empower managers (and persons authorized by the managers) of those premises to –
 - i. require persons who enter, or are present on, those premises to provide records, documents or information that is necessary for securing compliance with the directions; and

Annex A

ii. inspect and examine such records, documents or information;

(iv) create an offence of providing false or misleading record, document or information to authorized officers; and

(v) provide for the payment of a fixed penalty to discharge the liability of offences in sub-paragraph (a)(ii) above; and

(b) the Prevention and Control of Disease (Prohibition on Group Gathering) (Amendment) (No. 3) Regulation 2021 (at Annex B), which amended the Prevention and Control of Disease (Prohibition on Group Gathering) Regulation (Cap. 599G) to –

(i) provide for additional exempted group gatherings, namely -

i. group gatherings during wedding ceremonies, certain meetings¹ (e.g. annual general meetings/extraordinary general meetings) (“relevant meetings”) or religious activities participated only by persons who meet certain conditions; and

ii. group gatherings during certain tours if all relevant staff members meet certain conditions;

(ii) empower SFH to specify the conditions mentioned in sub-paragraph (b)(i) above;

(iii) confer certain powers on organizers of group gatherings described in sub-paragraph (b)(i) above, including a power to require provision of certain record, document or information;

(iv) provide for defences for persons who are charged with an offence under section 6 of Cap. 599G for being involved in a prohibited group gathering that would have been an exempted group gathering described in sub-paragraph (b)(i) if all or certain persons participating in the gathering met the relevant conditions; and

¹ Such meetings are:-

(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; or

(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.

- (v) create a new offence of providing false or misleading record, document or information to an authorized officer.

PRESENT SITUATION AND CONSIDERATION

Latest Local Situation

2. As of 26 April 2021, the Centre for Health Protection of the Department of Health had recorded a total of 11 741 cases of COVID-19. Over the past two weeks (13 – 26 April 2021), a total of 155 cases were reported, with 34 local cases (of which 17 cases involved unknown sources of infection) and 111 imported cases. Over the same period, the 7-day moving average number of local cases had decreased from 2.1 to 1.7 but the 7-day moving average number of local cases with unknown sources had increased from 0.4 to 1.1, reaching 1.9 on 22 and 23 April 2021.

3. Among the locally-acquired cases reported in the past two weeks, almost half were of unknown links/sources. While the average daily number of new cases had decreased from the peak level of the fourth wave in mid-December 2020, the persistence of local cases with unknown sources indicates that there is still silent transmission ongoing in the community. Notably, there had been a total of three locally-acquired cases (including two local cases of unknown source and one case epidemiologically linked with a local case) detected with the N501Y mutation. This illustrates that the virus with the mutant gene has likely entered the community already. There is evidence suggesting that some newly identified variants of concern may have increased transmissibility as compared to previously circulating variants. Even a single superspreader could lead to explosive outbreaks within a very short period of time. The risks of a large scale community outbreak now remain real.

4. Over the past month or so, the real-time effective reproductive number for local cases as estimated by the School of Public Health of the University of Hong Kong, having gone over 1.0 on 4 March 2021 as a result of the recent cluster outbreak involving a fitness centre, peaked at 1.44 on 8 March 2021 and had dropped below 1.0 since 12 March 2021, reaching the trough of 0.27 on 23 March 2021 but increased again and almost reached 1.0 on 13 April 2021.

5. It can be seen from the above that, while the epidemic situation has improved substantially since the peak of the fourth wave, we still need to maintain vigilance to guard against community outbreaks. There is therefore

a continued need to adjust the social distancing measures in a precise, cautious and gradual manner with suitable epidemic control measures in place to minimise the risk of sporadic cases developing into massive community outbreaks.

NEW DIRECTION IN FIGHTING THE PANDEMIC

6. The Chief Executive announced on 12 April 2021 the new direction in fighting the pandemic to restore the city to normality in a gradual and orderly manner, and aims to achieve the goal by refraining from using a “stop and go” approach, and by reinforcing infection control measures in a targeted manner and reiterating the need for concerted community efforts. Under the new direction, the Government has adjusted social distancing measures with “vaccine bubble” as the basis having regard to the aspirations of various sectors and members of the public while managing the transmission risks involved in relaxing such measures. Details of the measures were announced on 27 April 2021 and came into effect on 29 April 2021.

7. Successful implementation on the measures hinges on co-operation of the patrons or participants of the relevant activities or group gatherings in the form of compliance with the relevant entry or participation requirements in relation to vaccination, use of “LeaveHomeSafe” mobile app and other requirements to cater for exceptional circumstances. The legal framework provided under Cap. 599F and Cap. 599G would therefore need to be enhanced to impose legal obligations on patrons or participants to comply with such directions or requirements and to empower managers of the relevant premises, organizers of the group gatherings or persons authorized by such managers or organizers to require provision of relevant records, documents or information by patrons or participants in relation to such directions or requirements.

Amendments to Cap. 599F

8. The existing Cap. 599F allows us to impose, through specification and directions issued by SFH covering a period of not more than 14 days, restrictions and requirements on the mode of operation of catering business and scheduled premises which the operator or manager of the relevant business or premises is required to comply with. Such restrictions and requirements, however, do not bind other persons on the catering business premises or scheduled premises such as patrons and users except for those in relation to group gatherings and mask wearing (where non-compliance constitutes contravention under Cap. 599G and the Prevention and Control of Disease (Wearing of Mask) Regulation (Cap. 599I)).

9. While this legal framework largely served the intended purpose during the first year of the epidemic, as we have enhanced infection control measures in recent months having regard to the development of the epidemic situation and the need to allow certain social and economic activities to resume so as to avoid the one-size-fits-all approach, inadequacies have been observed in certain aspects, in particular in relation to requirements on the use of “LeaveHomeSafe” introduced to facilitate contact tracing. As patrons and users are not mandated by law to use the “LeaveHomeSafe” mobile app in a genuine manner to scan the relevant venue QR code or to leave truthful information should they opt not to use the app, this limits the extent to which such measures are implemented and hence the intended benefits.

10. Enhancing the legal framework to also put the onus of compliance on patrons and users would, therefore, be integral to the implementation of the relaxation under the concept of “vaccine bubble” given that provision of vaccination and related records as well as the use of “LeaveHomeSafe” form the basis of the measures and the conditions under which relaxation can be pursued having regard to risk assessment and the epidemic situation. The legislative amendments allow us to require persons who enter, or are present on, any catering business premises or scheduled premises to comply with directions issued by SFH. To create the necessary deterrence effect, non-compliance with the directions applicable to the persons would be an offence under Cap. 599F and the liability may be discharged by paying a fixed penalty of \$5,000. Managers (and persons authorized by the managers) of these premises would also be empowered to require such persons to provide records, documents or information that is necessary for securing compliance with the directions and to inspect and examine such records, documents or information. Even though non-compliance with managers’ requests would not in itself be an offence, failure to provide records, documents or information required under SFH’s directions would constitute non-compliance with those directions and hence would be an offence under Cap. 599F. To facilitate enforcement, an offence of providing false or misleading records, documents or information to authorized officers was also created.

Amendments to Cap. 599G

11. Except for a list of exempted group gatherings, the existing Cap. 599G prohibits groups gatherings (a) of more than four persons in public places; and (b) at Cap. 599F premises where the restrictions and requirements in relation to group gathering stipulated in the directions issued by SFH are not complied with. The exemption for religious activities held at places of worship and that for group gatherings during local tours were removed while the number of persons allowed at each wedding ceremony

and that allowed in each room or partitioned area at a relevant meeting was reduced in December 2020 in response to the fourth wave of the epidemic.

12. Under the new direction in fighting the pandemic, the restrictions on the aforementioned group gatherings would be relaxed under the concept of “vaccine bubble”. Similar to the legislative amendments under Cap. 599F, in order to allow the relaxation measures to be effectively implemented, we amended Cap. 599G such that, for certain exempted group gatherings, all or certain of the participants in such gatherings would need to meet certain conditions specified by SFH by notice in the gazette (those concerning vaccination and testing as appropriate). Details of those exempted group gatherings are set out in paragraphs 16 to 18 and 21 below. Mirroring the provisions under Cap. 599F, organizers of these gatherings (and persons authorized by them) would be empowered to require the relevant participants to produce relevant records, documents or information which prove that the participants have met such conditions. To facilitate enforcement, an offence of providing false or misleading record, document or information to authorized officers was also created.

13. Moreover, at a gathering which is intended to be an exempted group gathering mentioned in the preceding paragraph, should a person who needs to, but does not, meet the conditions attend the gathering (e.g. with a false vaccination record), the gathering would be rendered a prohibited group gathering under Cap. 599G and, hence, technically an organizer of and all participants in the gathering would have been involved in a prohibited group gathering under Cap. 599G. However, it is not reasonable to assume that:-

- (a) an organizer of such a gathering would always be able to ascertain whether the person had met the conditions despite reasonable efforts; and
- (b) the other participants in the gathering would know that the person did not meet the conditions.

14. As such, we have introduced a defence for organizers of such a gathering where they had taken all reasonable steps to ensure all of the persons who needed to meet the conditions had met the conditions.

15. We have also introduced a defence for a participant in such a gathering where he or she had met the conditions or that he or she did not need to meet the conditions. Furthermore, to cater for the situation where by no fault of his or her own, a participant who needed to meet the conditions did not meet the conditions but honestly believed that he or she had (e.g. if a testing laboratory returned a wrong test result to him or her by mistake), a

defence is provided to such a participant where he or she had taken all reasonable steps to ensure that he or she had met the conditions.

Relaxing the Group Gatherings Restrictions under Cap. 599G

(a) Exemption for wedding ceremonies, relevant meetings and religious activities

16. The number of persons allowed at each wedding ceremony where no food or drink is served (except as part of religious ritual) as well as that allowed in each room or partitioned area at a relevant meeting was 20 prior to the legislative amendments. Under the “vaccine bubble”, the limit has been increased to 50 for indoor premises and 100 for outdoor premises.

17. The capacity limit for religious gatherings was at 30% prior to the legislative amendments based on the number of persons that may normally be accommodated on the premises as a place of worship. Under the “vaccine bubble”, the limit has been increased to 50% for indoor premises and 100% for outdoor premises.

18. Under the amended Cap. 599G, the conditions participants of these exempted group gatherings are to meet are to be specified by SFH.

(b) Exemption for group tours

19. Group gatherings of not more than 30 persons each during local group tours organised by licensed travel agents and registered with the Travel Industry Council of Hong Kong (“TIC”) were one type of exempted group gathering during 23 October 2020 to 30 November 2020. This exemption was removed since 1 December 2020 in response to the fourth wave of the epidemic.

20. While the pandemic has persisted for more than one year, Hong Kong’s tourism trade has been facing a very difficult operating environment as a result of the local and global travel restrictions. The unemployment rate of the consumption and tourism-related industries stood at a high level of 10.7% in January – March 2021. The exports of travel services fell substantially by 90.5% in 2020 compared with 2019. Since the subsidence of the fourth wave of the epidemic, the tourism trade has been strongly appealing to the Government to allow resumption of local group tours, which will benefit the relevant trade segments including travel agents, related free-lance tourist guides or tour escorts, tour coaches and catering business etc. and keep those engaged in the trade employed. This is the last lifeline of the trade when all outbound and inbound leisure travel has come to a standstill. Meanwhile, the public is also showing increasing signs of anti-epidemic

fatigue of having to curtail many social contacts and activities. The popularity of the re-opened theme parks and staycations at hotels, the flooding of visitors to country parks as well as the increased business at catering premises after the extension of dine-in hours all illustrate a strong desire of the community to take a break or engage in leisure activities outdoors when cross-border/boundary travel is still suspended.

21. The trade stands ready to make the extra efforts to mitigate health risk of such group tours by putting in place various health protection measures. With these assurances and preparations, we are of the view that the health risk of such group tours may be much better managed and controlled. We therefore allowed the resumption of group tours by introducing an exemption for group gatherings of not more than 30 persons each during tours organised by licensed travel agents and registered with the TIC².

22. TIC, being the self-regulatory body for the travel trade, will be responsible for ensuring compliance with the social distancing or infection control measures and vaccination/testing requirements by travel agents under the registration arrangement for organising group tours. At registration, the organising travel agents would be required to subscribe to, by signing the revised Anti-epidemic Undertakings (“revised Undertakings”), a set of health and management protocol (e.g. mandatory wearing of masks throughout the tour except during eating and drinking, provision of hand sanitisers, transportation used during the tour can only be filled generally up to 50% etc.) with proposed enhanced measures. TIC would continue to act on complaint for monitoring the compliance of the revised Undertakings and also conduct on-site spot checks for compliance. Should there be any substantiated reports or complaints of breaches of the revised Undertakings, the travel agents concerned would be suspended from registration for group tours for a month. The trade has also pledged its commitment to enhancing the already stringent health and management protocols for such group tours and is ready to take on the additional measures as proposed above.

23. The exemption, with enhanced infection control measures, should

² When the exemption for group tours were introduced in October 2020, one of the conditions was that such tours should not involve passing through immigration control points as the intention then was to allow resumption of local group tours. As the Hong Kong-Singapore Air Travel Bubble is scheduled for launch on 26 May 2021 and there are active discussions to allow domestic “cruise-to-nowhere” itineraries for locals, it is anticipated that there may be both cross-border/boundary tour groups hence we have not confined the exemption to “local” group tours.

enable travel agents to organise group tours thereby bringing immediate business to the travel trade, and allow the travel trade to take advantage of the Green Lifestyle Local Tour Incentive Scheme³ and Hong Kong Tourism Board’s (“HKTB”) second round of the “Free Tour Programme”⁴. This can also benefit tourism related industries such as catering and tour service coach businesses.

OTHER OPTIONS

24. There is no other appropriate option that may enable the implementation of the measures under the new direction for fighting the pandemic apart from the legislative amendments under the Amendment Regulations.

THE AMENDMENT REGULATIONS

25. The main provisions of the Amendment Regulations are set out in paragraph 1.

LEGISLATIVE TIMETABLE

26. The legislative timetable is as follows –

Publication in the Gazette	27 April 2021
Tabling at the Legislative Council	28 April 2021
Commencement	29 April 2021

IMPLICATIONS OF THE PROPOSALS

27. The proposals under the Amendment Regulations are in conformity with the Basic Law, including the provisions concerning human rights.

³ Under the Green Lifestyle Local Tour Incentive Scheme, each licensed travel agent is eligible to a cash incentive of HK\$200 for each Hong Kong resident who participated in an eligible green lifestyle local tour organised by it, with the number of eligible tour participants per travel agent capped at 1 000. In other word, the maximum cash incentive per travel agent is HK\$200,000.

⁴ Leveraging the “Holiday at Home” campaign, the HKTB launched a “Free Tour Programme” late last year. The initiative aims to encourage consumers to spend on retail or dining to redeem a free tour. HKTB has invited travel agents to propose and operate tours for a second round of the programme.

PUBLIC CONSULTATION

28. Given the exigency of the situation, public consultation was not feasible.

PUBLICITY

29. We gazetted the Amendment Regulations and announced the measures at a press conference on 27 April 2021. A press release was issued on 28 April 2021. A spokesperson was also made available to respond to public or media enquiries.

BACKGROUND

30. The COVID-19 pandemic has caused an unprecedented health challenge across the globe. Before the wide availability and administration of vaccines, the absence of an effective treatment 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.

31. 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.

32. 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. 599F

33. We introduced Cap. 599F in late March 2020 to impose temporary measures on catering business and scheduled premises as follows –

- (a) amusement game centre;
- (b) bathhouse;
- (c) fitness centre;
- (d) place of amusement;
- (e) place of public entertainment;
- (f) premises (commonly known as party room) that are maintained or intended to be maintained for hire for holding social gatherings;
- (g) beauty parlour;
- (h) club-house;
- (i) establishment (commonly known as club or nightclub) that is open late into the night, usually for drinking, and dancing or other entertainment;
- (j) karaoke establishment;
- (k) mahjong-tin kau premises;
- (l) massage establishment;
- (m) sports premises (added in July 2020);
- (n) swimming pool (added in July 2020); and
- (o) hotel/guesthouse (added in November 2020).

Cap. 599G

34. We introduced Cap. 599G in late March 2020 to prohibit group gatherings of more than four persons in a public place during any period not exceeding 14 days as specified by SFH by a notice published in the Gazette, except for a list of exempted group gatherings. The Chief Secretary for the Administration may permit certain group gatherings. The number of persons allowed in a group gathering in a public place or at the Cap. 599F premises as well as the list of exempted group gatherings have been adjusted from time to time in response to the development of the epidemic situation.

35. The cap on the number of persons allowed in a group gathering under Cap. 599G was adjusted to eight persons in early May 2020 and subsequently 50 persons in mid-June 2020; decreased to four persons in mid-July 2020 and two persons in late July 2020 in response to the outbreaks under the third wave; and increased to four persons again in September 2020 after the third wave subsided. With the arrival of the fourth wave, the

maximum number of persons allowed in group gatherings in public places and at the Cap. 599F premises was again reduced to two persons in December 2020. Given that the fourth wave has been gradually subsiding since early February 2021, the cap was increased to four persons in late February 2021.

ENQUIRIES

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

Food and Health Bureau
April 2021

Prevention and Control of Disease (Requirements and Directions) (Business and Premises) (Amendment) (No. 2) Regulation 2021

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Prevention and Control of Disease (Requirements and Directions) (Business and Premises) (Amendment) (No. 2) Regulation 2021

(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 29 April 2021.

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

The Prevention and Control of Disease (Requirements and Directions) (Business and Premises) Regulation (Cap. 599 sub. leg. F) is amended as set out in sections 3 to 16.

3. Section 2 amended (interpretation)

- (1) Section 2, definition of *scheduled premises*, after “Schedule 2”—

Add

“, or any part of them”.

- (2) Section 2, Chinese text, definition of 餐飲業務負責人—

Repeal

“經理。”

Substitute

“經理；”。

- (3) Section 2—

Add in alphabetical order

“*authorized officer* (獲授權人員) means a public officer appointed under section 11(1);

catering business premises (餐飲業務處所) means premises (whether or not used for consumption of food or drink) of a catering business that sells or supplies food or drink for consumption on its premises, or any part of them;

fixed penalty (定額罰款) means the fixed penalty under section 13B(1);”.

4. Section 6 amended (directions of Secretary in relation to catering business)

- (1) Section 6(1), Chinese text—

Repeal

“事宜”

Substitute

“各項”。

- (2) Section 6(1)—

Repeal paragraphs (a) and (b)

Substitute

“(a) any catering business that sells or supplies food or drink for consumption on its premises or any activity carried out by any person on any catering business premises, including the mode of operation of the business or activity;

(b) the closing of any catering business premises;”.

- (3) Section 6(3)—

Repeal

everything after “restrictions”

Substitute

“under subsection (1) for—

- (a) different categories or descriptions of catering businesses; and
- (b) different categories or descriptions of persons entering or present on any catering business premises.”.

5. Section 7 amended (person responsible for carrying on a catering business must comply with directions of Secretary)

Section 7(1), English text—

Repeal

“is applicable”

Substitute

“applies”.

6. Sections 7AA and 7AAB added

After section 7—

Add

“7AA. Persons entering or present on catering business premises must comply with directions

- (1) A person who enters, or is present on, any catering business premises must comply with any direction issued under section 6(1) that applies in relation to the person.
- (2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 3.
- (3) A person who, in purported compliance with a direction issued under section 6(1), provides any record, document

or information that is false or misleading in a material particular is to be regarded as not having complied with the direction.

7AAB. Powers of managers and police officers as regards directions for catering business

- (1) The manager of any catering business premises may, for securing compliance with any direction issued under section 6(1) as required under section 7(1) or 7AA(1)—
 - (a) require a person who enters, or is present on, the premises to provide any record, document or information that is necessary for securing compliance with the direction; and
 - (b) inspect and examine such record, document or information.
- (2) If a person fails to comply with a requirement made to the person under subsection (1) or contravenes section 7AA(1), the manager of the catering business premises may—
 - (a) deny entry to the premises to the person; or
 - (b) require the person to leave the premises.
- (3) If the person fails to leave the premises when required to do so under subsection (2)(b), a police officer may—
 - (a) remove the person from the premises; and
 - (b) use reasonable force in the removal.
- (4) Subsections (1) and (2) do not limit any rights of a manager of catering business premises under any law or contract.
- (5) In this section—

manager (管理人) includes a person authorized by a manager for the purposes of this section.”.

7. **Section 8 amended (directions of Secretary in relation to scheduled premises)**

(1) Section 8(1)—

Repeal paragraphs (a) and (b)

Substitute

- “(a) any business carried on, or any activity carried out, by any person on any scheduled premises, including the mode of operation of the business or activity;
- (b) the closing of any scheduled premises;”.

(2) Section 8(3)—

Repeal

everything after “restrictions”

Substitute

“under subsection (1) for—

- (a) different categories or descriptions of scheduled premises; and
- (b) different categories or descriptions of persons entering or present on any scheduled premises.”.

8. **Section 9 amended (manager of scheduled premises must comply with directions of Secretary)**

Section 9(1), English text—

Repeal

“is applicable”

Substitute

“applies”.

9. **Sections 9AA and 9AAB added**

After section 9—

Add

“9AA. Persons entering or present on scheduled premises must comply with directions

- (1) A person who enters, or is present on, any scheduled premises must comply with any direction issued under section 8(1) that applies in relation to the person.
- (2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 3.
- (3) A person who, in purported compliance with a direction issued under section 8(1), provides any record, document or information that is false or misleading in a material particular is to be regarded as not having complied with the direction.

9AAB. Powers of managers and police officers as regards directions for scheduled premises

- (1) The manager of any scheduled premises may, for securing compliance with any direction issued under section 8(1) as required under section 9(1) or 9AA(1)—
- (a) require a person who enters, or is present on, the premises to provide any record, document or information that is necessary for securing compliance with the direction; and
- (b) inspect and examine such record, document or information.

- (2) If a person fails to comply with a requirement made to the person under subsection (1) or contravenes section 9AA(1), the manager of the scheduled premises may—
 - (a) deny entry to the premises to the person; or
 - (b) require the person to leave the premises.
- (3) If the person fails to leave the premises when required to do so under subsection (2)(b), a police officer may—
 - (a) remove the person from the premises; and
 - (b) use reasonable force in the removal.
- (4) Subsections (1) and (2) do not limit any rights of a manager of scheduled premises under any law or contract.
- (5) In this section—

manager (管理人) includes a person authorized by a manager for the purposes of this section.”.

10. Section 11 amended (authorized officers)

- (1) Section 11(1), after “of” —

Add
“any provisions of”.
- (2) Section 11(2)—

Repeal
“Part”

Substitute
“Regulation”.
- (3) Section 11(3)—

Repeal
“Part”

Substitute

“Regulation”.

11. Section 12 amended (powers to enter and inspect specified premises)

- (1) Section 12(1)(c)—

Repeal

“or article”

Substitute

“, article or information”.

- (2) Section 12(1)(e)—

Repeal

“Part”

Substitute

“Regulation”.

- (3) Section 12(2)—

Repeal

“an offence has been committed by a person”

Substitute

“a person is committing or has committed an offence”.

- (4) Section 12(2)—

Repeal paragraph (a)

Substitute

“(a) require the person to—

- (i) give the person’s name, date of birth, address and contact telephone number (if any); and

(ii) produce for inspection the person's proof of identity;"

(5) After section 12(2)—

Add

“(3) In this section—

proof of identity (身分證明文件) has the meaning given by section 17B of the Immigration Ordinance (Cap. 115).”

12. Section 12A amended (power to enter and search specified premises with warrant for investigation)

Section 12A(2)(c)—

Repeal

“Part”

Substitute

“Regulation”.

13. Section 13 amended (obstruction of authorized officers etc. prohibited)

(1) Section 13(1)—

Repeal

“Part”

Substitute

“Regulation”.

(2) Section 13(2)—

Repeal

“Part”

Substitute

“Regulation”.

(3) After section 13(3)—

Add

“(4) A person who, in purported compliance with a requirement or request made by an authorized officer in the performance of a function under this Regulation, knowingly or recklessly provides any record, document or information that is false or misleading in a material particular commits an offence and is liable on conviction to a fine at level 3.”.

14. Section 13A amended (defence)

(1) Section 13A(1)—

Repeal

“or 9(2)”

Substitute

“, 7AA(2), 9(2) or 9AA(2)”.

(2) Section 13A(2)—

Repeal

“or 9(2)”

Substitute

“, 7AA(2), 9(2) or 9AA(2)”.

15. Sections 13B and 13C added

After section 13A—

Add

“13B. Fixed penalty in discharge of liability under section 7AA(2) or 9AA(2)

- (1) If a person commits an offence under section 7AA(2) or 9AA(2), the person may, in accordance with Schedule 3, discharge liability for the offence by paying a fixed penalty of \$5,000.
- (2) Schedule 3 provides for matters relating to the fixed penalty.
- (3) The Secretary may, by notice published in the Gazette, specify a public officer as an Authority for the purposes of Schedule 3.
- (4) A notice published under subsection (3) is not subsidiary legislation.

13C. Director may specify form of documents

The Director may specify the form of any notice or certificate for the purposes of this Regulation.”.

16. Schedule 3 added

After Schedule 2—

Add

“Schedule 3

[s. 13B]

Fixed Penalty

Part 1

Interpretation

1. Interpretation

In this Schedule—

Authority (當局) means a public officer specified under section 13B(3);

demand notice (繳款通知書) means a demand notice served under section 4(2) of this Schedule;

penalty notice (罰款通知書) means a penalty notice given under section 2(2) of this Schedule;

recovery order (追討令) means an order made under section 7(2) of this Schedule;

specified form (指明格式) means a form specified under section 13C.

Part 2

Penalty Notice and Demand Notice

2. Authorized officer may give penalty notice

- (1) This section applies if an authorized officer has reason to believe that a person is committing or has committed an offence under section 7AA(2) or 9AA(2).
- (2) The authorized officer may give the person a penalty notice in the specified form offering the person an opportunity to discharge the person’s liability for the

offence by paying the fixed penalty within 21 days after the date on which the notice is given.

- (3) A penalty notice must be given by the authorized officer personally to the person.

3. No prosecution or conviction if compliance with penalty notice

- (1) This section applies to a person who has been given a penalty notice in respect of an offence under section 7AA(2) or 9AA(2).
- (2) Subject to section 6 of this Schedule, the person is not liable to be prosecuted or convicted for the offence if the person has paid the fixed penalty within 21 days after the date on which the penalty notice is given.

4. Authority may serve demand notice in case of failure to pay fixed penalty etc.

- (1) This section applies if—
 - (a) a person—
 - (i) has been given a penalty notice in respect of an offence under section 7AA(2) or 9AA(2); and
 - (ii) fails to pay the fixed penalty within 21 days after the date on which the notice is given; or
 - (b) a person refuses to accept a penalty notice intended to be given to the person in respect of the offence.
- (2) The Authority may serve on the person a demand notice in the specified form—
 - (a) demanding payment of the fixed penalty;

- (b) informing the person that the person must notify the Authority in writing if the person wishes to dispute liability for the offence; and

- (c) stating that the payment or notification must be made within 10 days after the date on which the demand notice is served.

- (3) A demand notice may not be served later than—
 - (a) if subsection (1)(a) applies—6 months after the date on which the penalty notice is given; or
 - (b) if subsection (1)(b) applies—6 months after the date on which the person refuses to accept the penalty notice.
- (4) A demand notice may be served by sending it by post to the person's address.
- (5) A certificate of posting in the specified form purporting to be signed by or for the Authority is admissible in evidence in any proceedings under this Regulation.
- (6) Unless there is evidence to the contrary, it is presumed that—
 - (a) the certificate was signed by or for the Authority; and
 - (b) the demand notice to which the certificate relates was duly served.

5. No prosecution or conviction if compliance with demand notice

- (1) This section applies to a person on whom a demand notice has been served in respect of an offence under section 7AA(2) or 9AA(2).

- (2) Subject to section 6 of this Schedule, the person is not liable to be prosecuted or convicted for the offence if the person has paid the fixed penalty within 10 days after the date on which the demand notice is served.

6. Withdrawal of penalty notice or demand notice

- (1) The Authority may withdraw a penalty notice given, or a demand notice served, in respect of an offence under section 7AA(2) or 9AA(2)—
- (a) at any time before a recovery order is made; or
 - (b) at any time before any proceedings for the offence commence.
- (2) If a penalty notice or demand notice is withdrawn—
- (a) the Authority must serve notice of the withdrawal on the person to whom, or on whom, the penalty notice or demand notice has been given or served; and
 - (b) on application by the person, the Authority must refund, through the Director of Accounting Services, any amount paid for the fixed penalty.
- (3) If a penalty notice or demand notice is withdrawn, proceedings for the offence may only be commenced where—
- (a) the ground, or one of the grounds, on which the notice is withdrawn is that it contains incorrect information; and
 - (b) the incorrect information was provided by the person to whom, or on whom, the notice was given or served.

Part 3

Recovery of Fixed Penalty

7. Recovery of fixed penalty

- (1) This section applies if a person on whom a demand notice has been served—
- (a) fails to pay the fixed penalty in accordance with the notice; and
 - (b) fails to notify the Authority in accordance with the notice that the person wishes to dispute liability for the offence.
- (2) On application made in the name of the Secretary for Justice and production of the documents specified in subsection (3), a magistrate must order the person to pay, within 14 days after the date of service of notice of the order—
- (a) the fixed penalty;
 - (b) an additional penalty equal to the amount of the fixed penalty; and
 - (c) \$300 by way of costs.
- (3) The documents are—
- (a) a copy of the demand notice;
 - (b) a certificate of posting relating to the demand notice under section 4(5) of this Schedule; and
 - (c) a certificate under section 8 of this Schedule.
- (4) A magistrate must cause notice of a recovery order to be served on the person against whom it is made and it may be served by sending it by post to the person's address.

- (5) An application may be made in the absence of the person and the Secretary for Justice may appoint a person or class of persons to make an application.

8. Evidentiary certificate

- (1) A certificate in the specified form stating the matters in subsection (2) and purporting to be signed by or for the Authority is admissible in evidence in any proceedings under this Regulation.
- (2) The matters are—
 - (a) that the person specified in the certificate had not, before the date of the certificate, paid the fixed penalty;
 - (b) that the person specified in the certificate had not, before the date of the certificate, notified the Authority that the person wished to dispute liability for the offence; and
 - (c) that the address specified in the certificate was, on the date specified in the certificate in relation to the address, the person's address.
- (3) Unless there is evidence to the contrary—
 - (a) it is presumed that the certificate was signed by or for the Authority; and
 - (b) the certificate is evidence of the facts stated in it.

9. Consequences of compliance with recovery order or failure to do so

- (1) This section applies to a person against whom a recovery order is made.

- (2) If the person has complied with the recovery order, the person is not liable to be prosecuted or convicted for the offence to which the order relates.
- (3) If the person fails to comply with the recovery order, the person—
 - (a) is to be regarded, for the purposes of section 68 of the Magistrates Ordinance (Cap. 227), as having failed to pay the sum adjudged to be paid by a conviction; and
 - (b) is liable to be imprisoned under that section.

10. Application for review of recovery order

- (1) A person against whom a recovery order is made may apply to a magistrate for review of the order.
- (2) An application must be made within 14 days after the date on which the recovery order first came to the personal notice of the applicant.
- (3) The applicant must give reasonable notice of the application to the Authority.
- (4) An application may be made in person or by counsel or solicitor.
- (5) For securing the attendance of witnesses and generally for conducting the proceedings, the magistrate has all the powers of a magistrate hearing a complaint under the Magistrates Ordinance (Cap. 227).

11. Outcome of review

- (1) On application under section 10 of this Schedule, a magistrate may rescind a recovery order if satisfied that

- the demand notice did not come to the personal notice of the applicant without any fault of the applicant.
- (2) If the magistrate rescinds a recovery order, and the applicant wishes to dispute liability for the offence to which the order relates, the magistrate must give leave to that effect.
 - (3) If the magistrate rescinds a recovery order, and the applicant does not wish to dispute liability for the offence to which the order relates, the magistrate—
 - (a) must order the applicant to pay the fixed penalty within 10 days after the date of an order made under this paragraph; and
 - (b) must order that, if the applicant fails to pay the fixed penalty within that period, the applicant must immediately pay—
 - (i) the fixed penalty;
 - (ii) an additional penalty equal to the amount of the fixed penalty; and
 - (iii) \$300 by way of costs.
 - (4) Despite section 26 of the Magistrates Ordinance (Cap. 227), if a magistrate gives leave under subsection (2), proceedings may be commenced within 6 months after the date on which the magistrate gives the leave.
 - (5) If the applicant fails to comply with the order under subsection (3)(b), the applicant—
 - (a) is to be regarded, for the purposes of section 68 of the Magistrates Ordinance (Cap. 227), as having failed to pay the sum adjudged to be paid by a conviction; and
 - (b) is liable to be imprisoned under that section.

- (6) If the applicant has complied with the order under subsection (3)(a) or (b), the applicant is not liable to be prosecuted or convicted for the offence to which the order relates.

Part 4

Proceedings if Person Disputes Liability

12. Dispute of liability for offence

- (1) This section applies if—
 - (a) a person has notified the Authority in accordance with a demand notice that the person wishes to dispute liability for an offence under section 7AA(2) or 9AA(2); or
 - (b) a person has been given leave under section 11(2) of this Schedule to dispute liability for an offence under section 7AA(2) or 9AA(2).
- (2) A summons issued in any proceedings against the person for the offence may be served on the person in accordance with section 8 of the Magistrates Ordinance (Cap. 227).
- (3) If—
 - (a) in consequence of the notification or leave, the person appears in any proceedings in answer to a summons; and
 - (b) the person is convicted of the offence after having offered no defence or a defence that is frivolous or vexatious,

the magistrate before whom the proceedings are heard must, in addition to any other penalty and costs, impose

- an additional penalty equal to the amount of the fixed penalty.
- (4) Any proceedings commenced against a person falling within subsection (1)(a) must terminate if the person pays in accordance with subsection (5)—
- (a) the fixed penalty;
 - (b) an additional penalty equal to the amount of the fixed penalty; and
 - (c) \$500 by way of costs.
- (5) Payment under subsection (4) must be made at any magistrates' court not less than 2 days before the day specified in the summons for the person's appearance, and the summons must be produced at the time of the payment.
- (6) Neither a Saturday nor a public holiday may be included in the computation of the 2 days' period mentioned in subsection (5).

Part 5

General Provisions for Proceedings

13. Power to rescind order on application by Authority

At any time, a magistrate may for good cause, on application by the Authority, rescind—

- (a) an order for the payment of the fixed penalty; and
- (b) any other order made under this Schedule in the same proceedings.”.

Clerk to the Executive Council

COUNCIL CHAMBER

2021

Explanatory Note

This Regulation amends the Prevention and Control of Disease (Requirements and Directions) (Business and Premises) Regulation (Cap. 599 sub. leg. F) (*principal Regulation*) mainly to—

- (a) require persons who enter, or are present on, any premises of a catering business that sells or supplies food or drink for consumption on its premises or any scheduled premises to comply with directions issued under section 6(1) or 8(1) of the principal Regulation;
- (b) create offences of contravening the requirement mentioned in subparagraph (a);
- (c) empower managers (and persons authorized by the managers) of those premises to—
 - (i) require persons who enter, or are present on, those premises to provide records, documents or information that is necessary for securing compliance with the directions; and
 - (ii) inspect and examine such records, documents or information;
- (d) create an offence of providing false or misleading record, document or information to authorized officers; and
- (e) provide for the payment of a fixed penalty to discharge the liability of offences mentioned in subparagraph (b).

**Prevention and Control of Disease (Prohibition on
Group Gathering) (Amendment) (No. 3) Regulation
2021**

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Prevention and Control of Disease (Prohibition on Group Gathering) (Amendment) (No. 3) Regulation 2021

(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 29 April 2021.

**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 to 16.

3. Part 1 heading added

Before section 1—

Add

“Part 1

Preliminary”.

4. Section 2 amended (interpretation)

(1) Section 2, Chinese text, definition of ~~獲授權人員~~

Repeal

“員。”

Substitute

“員；”。

(2) Section 2—

Add in alphabetical order

“exempted group gathering (豁免羣組聚集) means a group gathering specified in Part 1 of Schedule 1;

licensee (持牌人) has the meaning given by section 2 of the Travel Agents Ordinance (Cap. 218);

qualified person (合資格人士) means a person who, immediately before participating in the group gathering concerned, meets any set of conditions specified under section 5B(1);”。

5. **Part 2 heading added**

Before section 3—

Add

“Part 2

Prohibition on Group Gatherings”.

6. **Section 3 amended (prohibition on group gathering during specified period)**

Section 3(2)(a)—

Repeal

“specified in Schedule 1”.

7. **Part 3 heading and sections 5A to 5D added**

After section 5—

Add

“Part 3

Group Gatherings Participated by Qualified Persons

5A. **Interpretation of Part 3**

In this Part—

organizer (組織者), in relation to a qualified persons’ gathering, means—

- (a) a person who organizes the gathering;
- (b) a person who—
 - (i) owns, controls or operates the place or premises at which the gathering takes place; and
 - (ii) knowingly allows the taking place of the gathering; or
- (c) a person authorized by a person mentioned in paragraph (a) or (b);

qualified persons’ gathering (合資格人士聚集) means a group gathering that is, or is intended by a person who organizes it to be, an exempted group gathering specified in item 9B, 11A or 18 of Part 1 of Schedule 1;

Note without legislative effect—

For ease of reference—

- (a) item 9B of Part 1 of Schedule 1 relates to wedding ceremonies;
- (b) item 11A of Part 1 of Schedule 1 relates to certain meetings of bodies and shareholders’ meetings; and
- (c) item 18 of Part 1 of Schedule 1 relates to religious activities.

specified participant (指明參與者), in relation to a qualified persons' gathering, means a person who participates, or intends to participate, in the gathering;

staff member (工作人員), in relation to a tour gathering, means—

- (a) a licensee who organizes the gathering;
- (b) an employee of the licensee;
- (c) an agent or contractor of the licensee; or
- (d) an employee of the agent or contractor;

staff member participant (工作人員參與者), in relation to a tour gathering, means a person who participates, or intends to participate, in the gathering as a staff member;

tour gathering (旅行團聚集) means a group gathering that is, or is intended by a licensee who organizes it to be, an exempted group gathering specified in item 19 of Part 1 of Schedule I;

tour organizer (辦團者), in relation to a tour gathering, means—

- (a) a licensee who organizes the gathering; or
- (b) a person authorized by the licensee.

5B. Secretary may specify conditions regarding qualified persons

- (1) For classifying a person as a qualified person for the purposes of this Regulation, the Secretary may, by notice published in the Gazette, specify one or more sets of conditions by reference to—
 - (a) whether the person has been administered a vaccine within a certain time;

- (b) whether the person has previously contracted the specified disease within a certain time;
- (c) whether the person has undergone a test within a certain time for ascertaining whether he or she has contracted the specified disease;
- (d) whether the person is clinically assessed to be unfit to be administered a vaccine;
- (e) the age of the person; or
- (f) any other relevant factors.

(2) A notice published under subsection (1) is not subsidiary legislation.

(3) In this section—

vaccine (疫苗) has the meaning given by section 2 of the Prevention and Control of Disease (Use of Vaccines) Regulation (Cap. 599 sub. leg. K).

5C. Powers of organizer and police officer in respect of qualified persons' gathering

- (1) For ascertaining whether a specified participant of a qualified persons' gathering is a qualified person, an organizer of the gathering may, before or during the gathering—
 - (a) make any reasonable requirement to the participant, including a requirement to provide any record, document or information proving that the participant is a qualified person; and
 - (b) inspect and examine such record, document or information.
- (2) If a specified participant of a qualified persons' gathering—

- (a) is not a qualified person; or
 - (b) fails to comply with a requirement made under subsection (1)(a),
an organizer of the gathering may require the participant not to participate, or to cease to participate, in the gathering.
- (3) If a specified participant of a qualified persons' gathering fails to comply with a requirement made under subsection (2), a police officer may use any force that is reasonably necessary for securing the participant's compliance with the requirement.
- (4) Subsections (1) and (2) do not limit any rights of an organizer of a qualified persons' gathering under any law or contract.

5D. Powers of tour organizer and police officer in respect of tour gathering

- (1) For ascertaining whether a staff member participant of a tour gathering is a qualified person, a tour organizer of the gathering may, before or during the gathering—
- (a) make any reasonable requirement to the participant, including a requirement to provide any record, document or information proving that the participant is a qualified person; and
 - (b) inspect and examine such record, document or information.
- (2) If a staff member participant of a tour gathering—
- (a) is not a qualified person; or
 - (b) fails to comply with a requirement made under subsection (1)(a),

- a tour organizer of the gathering may require the participant not to participate, or to cease to participate, in the gathering.
- (3) If a staff member participant of a tour gathering fails to comply with a requirement made under subsection (2), a police officer may use any force that is reasonably necessary for securing the participant's compliance with the requirement.
- (4) Subsections (1) and (2) do not limit any rights of a tour organizer of a tour gathering under any law or contract.”.

8. Part 4 heading added

Before section 6—

Add

“Part 4

Offence related to Prohibited Group Gatherings”.

9. Section 7 amended (defence for offence under section 6)

- (1) Section 7(1)(a)—

Repeal

“for a person charged under section 6(1)(a)”

Substitute

“if section 6(1)(a) applies”.

- (2) Section 7(1)(b)—

Repeal

“for a person charged under section 6(1)(b)”

Substitute

“if section 6(1)(b) applies”.

(3) Section 7(1)(c)—

Repeal

“for a person charged under section 6(1)(c)”

Substitute

“if section 6(1)(c) applies”.

(4) After section 7(1A)—

Add

“(1B) It is a defence for a person who is charged with an offence under section 6(1) in respect of a prohibited group gathering (*relevant person*) to establish that—

(a) the gathering would have been an exempted qualified persons’ gathering if each of the persons participating in the gathering were a qualified person; and

(b) the relevant person—

(i) if section 6(1)(a) applies—

(A) was a qualified person; or

(B) was not a qualified person but, having taken all reasonable steps to ensure that he or she was a qualified person, honestly believed that he or she was a qualified person; or

(ii) if section 6(1)(b) or (c) applies—had taken all reasonable steps to ensure that each of the persons participating in the gathering was a qualified person.

(1C) It is a defence for a person who is charged with an offence under section 6(1) in respect of a prohibited group gathering (*relevant person*) to establish that—

(a) the gathering would have been an exempted tour gathering if each of the persons participating in the gathering as a staff member were a qualified person; and

(b) the relevant person—

(i) if section 6(1)(a) applies—

(A) did not participate in the gathering as a staff member;

(B) was a qualified person; or

(C) was not a qualified person but, having taken all reasonable steps to ensure that he or she was a qualified person, participated in the gathering as a staff member with an honest belief that he or she was a qualified person; or

(ii) if section 6(1)(b) or (c) applies—had taken all reasonable steps to ensure that each of the persons participating in the gathering as a staff member was a qualified person.”.

(5) After section 7(2)—

Add

“(3) In this section—

exempted qualified persons’ gathering (獲豁免合資格人士聚集) means an exempted group gathering specified in item 9B, 11A or 18 of Part 1 of Schedule 1;

Note without legislative effect—

For ease of reference—

- (a) item 9B of Part 1 of Schedule 1 relates to wedding ceremonies;
- (b) item 11A of Part 1 of Schedule 1 relates to certain meetings of bodies and shareholders' meetings; and
- (c) item 18 of Part 1 of Schedule 1 relates to religious activities.

exempted tour gathering (獲豁免旅行團聚集) means an exempted group gathering specified in item 19 of Part 1 of Schedule 1;

staff member (工作人員), in relation to a group gathering, means—

- (a) a licensee who organizes the gathering;
- (b) an employee of the licensee;
- (c) an agent or contractor of the licensee; or
- (d) an employee of the agent or contractor.”.

10. Part 5 heading added

Before section 9—

Add

“Part 5

Enforcement Powers”.

11. Section 9 amended (power to demand personal details and inspect proof of identity)

Section 9(4)—

Repeal

“supplies any information that the person knows to be false or misleading”

Substitute

“knowingly or recklessly supplies any information that is false or misleading in a material particular”.

12. Section 11 amended (power to enter and inspect public place or Cap. 599F premises)

Section 11(c)—

Repeal

“document or article”

Substitute

“document, article or information”.

13. Section 13 amended (obstruction of authorized officer etc. prohibited)

After section 13(3)—

Add

“(4) A person who, in purported compliance with a requirement made by an authorized officer in the performance of a function under this Regulation, knowingly or recklessly provides any record, document or information that is false or misleading in a material particular commits an offence and is liable on conviction to a fine at level 3.”.

14. Section 14 amended (authorized officers)

Section 14(1), after “of”—

Add

“any provisions of”.

15. Part 6 heading added

Before section 15—

Add

“Part 6

Miscellaneous”.

16. Schedule 1 amended (exempted group gatherings)

(1) Schedule 1—

Repeal

“[s. 3”

Substitute

“[ss. 2, 5A & 7”.

(2) Schedule 1, before item 1—

Add

“Part 1

Exempted Group Gatherings”.

(3) Schedule 1, Part 1, after item 9A—

Add

“9B. Group gathering—

- (a) that is held during a wedding ceremony at which no food or drink is served (except as part of a religious ritual);

(b) in which each of the participants is a qualified person; and

(c) that is participated by not more than—

(i) for a gathering held at an indoor place—
50 persons; or

(ii) for a gathering held at an outdoor place—
100 persons”.

(4) Schedule 1, Part 1—

Repeal item 11

Substitute

“11. Group gathering during a specified business meeting at which no food or drink is served and, in the case of a group gathering of more than 20 persons, they are separated in different rooms or partitioned areas, each accommodating not more than 20 persons”.

(5) Schedule 1, Part 1, after item 11—

Add

“11A. Group gathering that satisfies the following conditions—

(a) the gathering is held during a specified business meeting at which no food or drink is served;

(b) each of the participants in the gathering is a qualified person;

(c) if the gathering is held at an indoor place and is participated by more than 50 persons—they are separated in different rooms or partitioned areas, each accommodating not more than 50 persons; and

- (d) if the gathering is held at an outdoor place and is participated by more than 100 persons—they are separated in different partitioned areas, each accommodating not more than 100 persons”.

(6) Schedule 1, Part 1—

Repeal item 17

Substitute

“17. Group gathering during a religious activity (other than a wedding ceremony) that satisfies the following conditions—

- (a) the activity is held on any premises constructed or regularly used as a place of worship (including a church, monastery or nunnery, mosque, synagogue or temple);
- (b) no food or drink is served in the activity (except as part of a religious ritual); and
- (c) the number of participants in the activity is restricted to not more than 30% of the number of persons that may normally be accommodated on the premises as a place of worship”.

(7) Schedule 1, Part 1, after item 17—

Add

“18. Group gathering during a religious activity (other than a wedding ceremony) that satisfies the following conditions—

- (a) each of the participants in the gathering is a qualified person;

- (b) the activity is held on any premises constructed or regularly used as a place of worship (including a church, monastery or nunnery, mosque, synagogue or temple);
- (c) no food or drink is served in the activity (except as part of a religious ritual); and
- (d) the number of participants in the activity is restricted to—
 - (i) for a gathering held on indoor premises—not more than 50% of the number of persons that may normally be accommodated on the premises as a place of worship; or
 - (ii) for a gathering held on outdoor premises—not more than 100% of the number of persons that may normally be accommodated on the premises as a place of worship

19. Group gathering of not more than 30 persons—

- (a) during a tour—
 - (i) organized by a licensee; and
 - (ii) registered with the Travel Industry Council of Hong Kong; and
- (b) in which each of the persons who participates as a staff member of the tour is a qualified person,

except when taking place at any Cap. 599F premises”.

(8) At the end of Schedule 1—

Add

“Part 2

Interpretation

1. In this Schedule—

indoor (室內) means—

- (a) having a ceiling or roof, or a cover that functions (whether temporarily or permanently) as a ceiling or roof; and
- (b) having at least 50% of the total area of all sides enclosed (whether temporarily or permanently), otherwise than by—
 - (i) any window or door capable of being opened; or
 - (ii) any opening that functions as such a window or door;

outdoor (室外) means not indoor;

specified business meeting (指明業務會議) means—

- (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; or
- (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;

staff member (工作人員), in relation to a tour, means—

- (a) a licensee who organizes the tour;
- (b) an employee of the licensee;
- (c) an agent or contractor of the licensee; or
- (d) an employee of the agent or contractor.”.

Clerk to the Executive Council

COUNCIL CHAMBER

2021

Explanatory Note

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

- (a) update certain exemption conditions for existing exempted group gatherings during certain meetings or religious activities;
- (b) provide for additional exempted group gatherings, namely—
 - (i) group gatherings during wedding ceremonies, certain meetings or religious activities participated only by persons who meet certain conditions (*relevant conditions*); and
 - (ii) group gatherings during certain tours if all the staff members meet the relevant conditions;
- (c) empower the Secretary for Food and Health to specify the relevant conditions;
- (d) confer certain powers on a person who organizes a group gathering that is, or is intended to be, one described in subparagraph (b)(i) or (ii), including a power to require the provision of certain record, document or information;
- (e) provide for defences for persons who are charged with an offence under section 6(1) of the principal Regulation for being involved in a prohibited group gathering that would have been an exempted group gathering described in subparagraph (b)(i) or (ii) if all or certain persons participating in the gathering met the relevant conditions; and

- (f) create a new offence of providing false or misleading record, document or information to an authorized officer, and align a similar existing offence with the new offence.