

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 22 June 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”) for the purpose of preventing, combating or alleviating the effects of the current public health emergency and protecting public health in Hong Kong –

Annex A

- (a) the **Prevention and Control of Disease (Requirements and Directions) (Business and Premises) (Amendment) (No. 3) Regulation 2021** (at Annex A), which amended the Prevention and Control of Disease (Requirements and Directions) (Business and Premises) Regulation (Cap. 599F) to add “cruise ship”¹ to Part 1 of Schedule 2 to Cap. 599F so as to allow resumption of cruise operation; and

Annex B

- (b) the **Prevention and Control of Disease (Prohibition on Group Gathering) (Amendment) (No. 4) Regulation 2021** (at Annex B), which amended the Prevention and Control of Disease (Prohibition on Group Gathering) Regulation (Cap. 599G) to –
- (i) expressly provide that the Secretary for Food and Health (“SFH”) may specify conditions for classifying a person as a qualified person for the purpose of exempted qualified persons’ gatherings by reference to whether a certain proportion of persons participating in the group gathering concerned has met any

¹ Cruise ship (郵輪) is to mean a vessel –

- (a) carrying passengers exclusively for sightseeing or pleasure purposes;
- (b) plying, along a predetermined route, on any voyage part of which is outside the waters of Hong Kong; and
- (c) the boarding of which involves passage through immigration control.

specified conditions;

- (ii) relax the conditions for the exemption for group gatherings during wedding ceremonies, certain meetings² (e.g. annual general meetings/extraordinary general meetings) or religious activities (“three types of exempted qualified persons’ gatherings”); and
- (iii) provide for an additional exempted group gathering, namely group gatherings during certain tours if all the participants meet the conditions specified under paragraph 1(b)(i) above.

LATEST EPIDEMIC SITUATION

2. As of 21 June 2021, the Centre for Health Protection of the Department of Health had recorded a total of 11 890 cases of COVID-19. Over the past two weeks (8 to 21 June 2021), a total of 24 cases were reported, of which none was a local case. Over the same period, the 7-day moving average number of local cases had decreased from 0.4 (on 8 June) to 0 (on 14 June and had maintained at that level since) whereas the 7-day moving average number of local cases with unknown sources had remained low at 0 and 0.1 for most of the time.

3. In early June 2021, a 17-year-old girl with no travel history was confirmed to have contracted COVID-19 with the N501Y mutant strain, marking the first local case of N501Y mutant strain with unlinked source in Hong Kong. Her mother and sister were subsequently confirmed to have contracted COVID-19 with the N501Y mutant strain as well. Extensive contact tracing, a restriction-testing declaration covering the building where her place of residence in Tin Shui Wai is located and repeated compulsory testing in respect of the places visited by these three local cases had been conducted with a view to containing the spread of the N501Y mutant strain in the community. After around two weeks (which is the typical incubation period of COVID-19) of observation, there has been no further confirmed case nor community outbreak in relation to the aforesaid local cases with the N501Y mutant strain.

² 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.

4. While there had been no locally acquired cases reported in the recent weeks, the epidemic situation was not yet entirely stable. The source of infection of the local cases carrying N501Y mutant strain was still under investigation and yet to be identified. Genetic analysis indicated that the virus of the case was different from those from the previous imported cases with the N501Y mutant strain; and different from the recent cases with the N501Y mutant strain reported in Shenzhen and the cases reported in Taiwan. The detection of locally acquired cases of unknown source signified the presence of silent transmission in the community and a potential increased transmissibility of the mutant strain.

5. The risks associated with cases imported from overseas to our community continued to pose threats to our efforts for control of the local situation, in particular with regard to concerns about mutant strains. Globally, the number of countries/areas reporting variants of concern continued to increase. Among the 27 imported cases reported in the recent two weeks (7 to 20 June 2021), 17 were detected to be carrying N501Y mutation (8 cases) or L452R mutation (9 cases). As at 20 June 2021, over 390 cases carrying N501Y/L452R mutation have been detected, including 153 cases with Alpha (B.1.1.7), 58 cases with Beta (B.1.351) and 41 cases with Delta (B.1.617.2).

6. In addition, the outbreak in Guangdong was still ongoing. As at 20 June 2021, a total of 153 cases (including symptomatic and asymptomatic cases) had been reported in multiple areas (Liwan, Haizhu, Nansha, Punyu and Yuxiu) of Guangzhou. The first case (reported on 21 May 2021) was detected to be carrying the Delta (B.1.617.2) variant. According to press information from the Guangdong health authority, most of the cases in the Liwan cluster were also detected to be carrying the Delta (B.1.617.2) variant.

7. A total of 19 cases (including symptomatic and asymptomatic cases) were also reported in Shenzhen (as at 20 June 2021) since the first (asymptomatic) case was reported on 21 May 2021. According to information from Guangdong health authority, most of the cases in the cluster were detected to be carrying the Alpha (B.1.1.7) variant.

8. Apart from the clusters in Liwan and Shenzhen, local cases were also reported in Foshan (12 cases reported as at 20 June 2021), Maoming (1 case), Zhanjiang (1 case) and Dongguan (2 cases). Cases in Guangzhou, Foshan, Maoming and Zhanjiang belonged to the same cluster. According to the press information from the Guangdong health authority, Delta (B.1.617.2) variant were detected in the 3 local cases recently reported in Shenzhen in mid-June, who were linked to a cluster of imported cases (detected to carry the Delta variant) related to flight CA868. Two cases in Dongguan were also

linked to this new Shenzhen cluster.

9. Over the past few weeks, the real-time effective reproductive number for local cases as estimated by the School of Public Health of the University of Hong Kong stood at 0.81 on 3 May 2021, dropped to 0.53 on 7 May 2021 and increased to 0.6 on 12 May 2021.

10. It can be seen from the above that, while the fourth wave of the epidemic has been brought under control, we still need to maintain vigilance to guard against potential 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.

ADJUSTMENTS TO SOCIAL DISTANCING MEASURES UNDER NEW DIRECTION IN FIGHTING THE PANDEMIC

11. 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 been adjusting 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.

First Phase of Social Distancing Measures under “Vaccine Bubble”

12. The first phase of social distancing measures under “vaccine bubble” took effect on 29 April. In respect of catering business, we provided four types of Mode of Operation for eateries, under which the operation restrictions on the relevant premises including the period during which dine-in services may be provided, the maximum number of persons allowed per table and the maximum number of persons allowed per banquet etc., would be relaxed subject to whether their staff and customers have received COVID-19 vaccination and the use of the LeaveHomeSafe mobile application to record their visit to the premises. Moreover, 6 types of premises (viz. bars or pubs, bathhouses, party rooms, clubs or nightclubs, karaoke establishments and mahjong-tin kau premises) may also resume operation in a gradual manner on the premise that their staff and/or customers must receive COVID-19 vaccination and customers must use the LeaveHomeSafe mobile application. We also relaxed the restriction on the

maximum number of persons allowed for the three types of exempted qualified persons' group gatherings on the premise that their participants must have received at least the first dose of COVID-19 vaccine. Group gatherings of not more than 30 persons during tours may also resume operation on the premise that their frontline staff must have received the first dose of COVID-19 vaccine.

Second Phase of Social Distancing Measures under “Vaccine Bubble”

13. Having regard to the further stabilisation of the epidemic situation and relevant trades' calls for further relaxation of operation restrictions, we consider that it was an opportune time to move to the second phase of “vaccine bubble” arrangements starting from 24 June 2021. The operation restrictions on catering business and scheduled premises (such as business hours, capacity limit, the maximum number of persons allowed per table/group and activities allowed) have been further relaxed. Furthermore, we have further relaxed the restrictions under the concept of “vaccine bubble” at catering premises operating in Type D Mode of Operation, fitness centres, swimming pools, meeting rooms/function rooms of club-houses and hotels/guesthouses, as well as the three types of exempted qualified persons' gatherings and tour gatherings. Subject to a certain proportion of the customers/participants fulfilling the requirement of receiving COVID-19 vaccination, the restrictions on the operation of the aforementioned premises and group gatherings may be further relaxed.

14. With the stabilising epidemic situation in Hong Kong since mid-February this year, the public, the cruise trade and the tourism industry have been expressing strong aspirations to kick start the gradual resumption of cruise travel which has been suspended for more than 15 months since February 2020. Under the “vaccine bubble” concept³ and subject to strict compliance with all relevant statutory and administrative directions by the Government, including a set of cruise-specific health protocols, cruise lines can resume “cruise-to-nowhere” (“CTN”) itineraries which do not involve ports outside Hong Kong for Hong Kong residents starting from end July 2021 the earliest.

Amendments to Cap. 599F

15. Amendments to Cap. 599F are required in order to put into effect the resumption of CTN itineraries. To ensure public health, participating cruise lines must sign an undertaking on their due compliance with government

³ All crew members and passengers of the cruise-to-nowhere itineraries must be fully vaccinated, except for those not suitable to do so with medical proof or due to age, before commencement of a cruise journey.

directions and health protocols at all times throughout CTN itineraries including when cruise ships are outside Hong Kong waters⁴. In addition, we see the need to provide legal backing for cruise lines' mandatory compliance with relevant infection control requirements by introducing cruise ships as a new type of scheduled premises under Cap. 599F. This would also allow the group gatherings on cruise ships⁵ to take place under the prevailing provisions of Cap. 599G.

Amendments to Cap. 599G

16. Given that we have relaxed the “vaccine bubble” arrangement for the three types of exempted qualified persons' gatherings and provided for an additional exempted group gathering for tours on the premise that at least two-thirds of the participants have received the first dose of COVID-19 vaccine, we amended Cap. 599G to the effect that –

- (a) for classifying a person as a qualified person for the purposes of Cap. 599G, SFH may, by notice published in the gazette, specify one or more sets of conditions by reference to whether a certain proportion of persons participating in the group gathering concerned have met any other specified condition;
- (b) for the three types of exempted qualified persons' gatherings, the restrictions would be further relaxed as follows –
 - (i) the maximum number of participants allowed for wedding ceremonies and certain meetings would be increased to 100% of the number of persons that may normally be accommodated on the premises; and
 - (ii) the capacity limit for religious activities would be increased to 100% of the number of persons that may normally be accommodated on the premises as a place of worship;
- (c) for the exemption for group gatherings during wedding ceremonies, certain meetings or religious activities where there is no vaccination requirement, the capacity limit would be relaxed to 50% of the number of persons that may normally be accommodated on the premises; and

⁴ According to the undertaking already signed by the cruise operators, the Government has the full discretion to suspend any or all CTN itineraries because of any non-compliance by a single cruise operator or the cruise industry in general.

⁵ Under Cap. 599G, group gatherings of more than four persons at a public place, other than group gatherings at Cap. 599F premises in compliance with the relevant requirement or restriction, are prohibited from taking place during a specified period.

- (d) an additional type of exempted qualified persons' gathering would be introduced so that a maximum of 100 persons may be allowed at tour gatherings in which all participants meet the conditions specified by SFH (including by reference to whether a certain proportion of persons participating in the tour gathering concerned has met any specified conditions).

OTHER OPTIONS

17. 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

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

LEGISLATIVE TIMETABLE

19. The legislative timetable is as follows –

Publication in the Gazette	22 June 2021
Tabling at the Legislative Council	23 June 2021
Commencement	24 June 2021

IMPLICATIONS OF THE PROPOSALS

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

PUBLIC CONSULTATION

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

PUBLICITY

22. The second phase of social distancing measures under “vaccine bubble” were announced at a press conference on 21 June 2021. We issued press releases on the legislative amendments and social distancing measures, and gazetted the Amendment Regulations on 22 June 2021. A spokesperson was also made available to respond to public or media enquiries.

BACKGROUND

23. 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.

24. 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.

25. 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

26. 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).

27. While all Cap. 599F premises except club-houses and hotels/guesthouses were required to close in response to the fourth wave, having regard to further stabilisation of the epidemic situation, all catering business and scheduled premises have been allowed to resume operation subject to restrictions and requirements by end April 2021.

Cap. 599G

28. 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.

29. 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

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

Food and Health Bureau
June 2021

Prevention and Control of Disease (Requirements and Directions) (Business and Premises) (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 24 June 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 section 3.

3. Schedule 2 amended (scheduled premises)

(1) Schedule 2, Part 1—

Add

“16. Cruise ship”.

(2) Schedule 2, Part 2, section 1—

Add in alphabetical order

“*cruise ship* (郵輪) means a vessel—

- (a) carrying passengers exclusively for sightseeing or pleasure purposes;
- (b) plying, along a predetermined route, on any voyage part of which is outside the waters of Hong Kong; and

- (c) the boarding of which involves passage through immigration control;”.

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) to add cruise ship to Part 1 of Schedule 2 to that Regulation.

**Prevention and Control of Disease (Prohibition on
Group Gathering) (Amendment) (No. 4) 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 24 June 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 7.

3. Section 2 amended (interpretation)

Section 2—

Repeal the definition of *qualified person*

Substitute

“*qualified person* (合資格人士) means a person who meets
any set of conditions specified under section 5B(1);”.

4. Section 5A amended (interpretation of Part 3)

(1) Section 5A, definition of *qualified persons’ gathering*—

Repeal

“or 18”

Substitute

“, 18 or 20”.

(2) Section 5A, definition of *qualified persons’ gathering*—

Repeal the Note

Substitute

“**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;
- (c) item 18 of Part 1 of Schedule 1 relates to religious activities;
and
- (d) item 20 of Part 1 of Schedule 1 relates to certain tours.”.

**5. Section 5B amended (Secretary may specify conditions
regarding qualified persons)**

(1) Section 5B(1)(f), after “factors”—

Add

“(whether related to the person or not)”.

(2) After section 5B(1)—

Add

“(1A) Without limiting subsection (1)(f), the Secretary may
specify a condition under subsection (1) by reference to
whether a certain proportion of persons participating in
the group gathering concerned has met any other
condition specified under subsection (1).”.

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

(1) Section 7(3), definition of *exempted qualified persons’
gathering*—

Repeal

“or 18”

Substitute

“, 18 or 20”.

- (2) Section 7(3), definition of *exempted qualified persons’ gathering*—

Repeal the Note

Substitute

“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;
- (c) item 18 of Part 1 of Schedule 1 relates to religious activities; and
- (d) item 20 of Part 1 of Schedule 1 relates to certain tours.”.

7. Schedule 1 amended (exempted group gatherings)

- (1) Schedule 1, Part 1—

Repeal items 9A and 9B

Substitute

- “9A. Group gathering that satisfies the following conditions—
- (a) the gathering is held during a wedding ceremony at which no food or drink is served (except as part of a religious ritual); and
 - (b) the number of participants in the gathering is restricted to not more than 50% of the number of persons that may normally be

accommodated on the premises as a place for wedding ceremony

- 9B. Group gathering that satisfies the following conditions—

- (a) the gathering is held during a wedding ceremony at which no food or drink is served (except as part of a religious ritual);
- (b) each of the participants in the gathering is a qualified person; and
- (c) the number of participants in the gathering is restricted to not more than 100% of the number of persons that may normally be accommodated on the premises as a place for wedding ceremony”.

- (2) Schedule 1, Part 1—

Repeal item 11

Substitute

- “11. 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; and
- (b) the number of participants in the gathering is restricted to not more than 50% of the number of persons that may normally be accommodated on the premises as a place of meeting”.

- (3) Schedule 1, Part 1, item 11A(b)—

Repeal the semicolon

Substitute

“; and”.

- (4) Schedule 1, Part 1, item 11A—

Repeal paragraph (c)

Substitute

“(c) the number of participants in the gathering is restricted to not more than 100% of the number of persons that may normally be accommodated on the premises as a place of meeting”.

- (5) Schedule 1, Part 1, item 11A—

Repeal paragraph (d).

- (6) Schedule 1, Part 1, item 17(c)—

Repeal

“30%”

Substitute

“50%”.

- (7) Schedule 1, Part 1, item 18(d)—

Repeal

everything after “restricted to”

Substitute

“not more than 100% of the number of persons that may normally be accommodated on the premises as a place of worship”.

- (8) Schedule 1, Part 1—

Add

“20. Group gathering of not more than 100 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 participants in the gathering is a qualified person,

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

- (9) Schedule 1, Part 2, section 1—

Repeal the definitions of *indoor* and *outdoor*.

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) to—

- (a) expressly provide that the Secretary for Food and Health may specify conditions for classifying a person as a qualified person by reference to whether a certain proportion of persons participating in the group gathering concerned has met any other specified condition;
- (b) relax the conditions for the exemption for group gatherings during wedding ceremonies, certain meetings or religious activities; and
- (c) provide for an additional exempted group gathering, namely, group gatherings during certain tours if all the participants meet the specified conditions.