

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 20 July 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 –

- (a) the **Prevention and Control of Disease (Requirements and Directions) (Business and Premises) (Amendment) (No. 4) Regulation 2021** (at Annex A), which amended the Prevention and Control of Disease (Requirements and Directions) (Business and Premises) Regulation (Cap. 599F) to add “event premises”¹ to Part 1 of Schedule 2 to Cap. 599F as an additional type of scheduled premises so

Annex A

¹ Event premises (活動場所) is to mean premises for holding a specified event, which means an event (including a meeting, forum, symposium, exhibition, ceremonial event and celebratory event) that satisfies the following conditions—

- (a) the organizer of the event adopts access control measures to check the persons who intend to enter the event premises for their authority or eligibility for being present at the event;
- (b) only the following persons are present in the event—
- (i) the organizer;
 - (ii) any person who provides services in relation to the event; and
 - (iii) any person who attends the event (A) pursuant to an invitation specifically to the person or a particular group of persons to which the person belongs, (B) pursuant to a prior acceptance by or on behalf of the organizer, (C) as a representative of a body or organization that was specifically invited by or on behalf of the organizer, or (D) through holding a permit to attend the event given by or on behalf of the organizer; and
- (c) the event is not an exempted group gathering under Cap. 599G, and the premises are not (i) private premises (i.e. premises to which the public may not, or are not permitted to, have access from time to time, whether by payment or otherwise) or (ii) places of public entertainment; and are for the time being used, with the consent of the owner, manager or tenant of the premises, for holding a specified event.

that specified events may be held subject to restrictions and requirements to be set out in directions issued by the Secretary for Food and Health (“SFH”). Organizers of specified events are also provided with certain powers on par with managers of scheduled premises with a view to securing compliance with SFH’s directions; and

Annex B

- (b) the **Prevention and Control of Disease (Prohibition on Group Gathering) (Amendment) (No. 5) Regulation 2021** (at Annex B), which amended the Prevention and Control of Disease (Prohibition on Group Gathering) Regulation (Cap. 599G) to remove wedding ceremonies and certain business meetings² (e.g. annual general meetings/extraordinary general meetings) from the exempted group gatherings under Part 1 of Schedule 1 to Cap. 599G given that these two types of group gatherings may be held as specified events at “event premises” under Cap. 599F with the legislative amendment thereto.

LATEST EPIDEMIC SITUATION

2. As of 19 July 2021, the Centre for Health Protection of the Department of Health had recorded a total of 11 959 cases of COVID-19. Over the past two weeks (6 to 19 July 2021), a total of 15 cases were reported, of which none were local cases. Over the same period, the 7-day moving average numbers of both local cases and local cases with unknown sources remained at 0, as the last local case with unknown source and case with epidemiological linkage to local case were reported on 5 and 7 June 2021 respectively, a 42-day streak of recording “zero local case”.

3. Since the last case with epidemiological linkage to local case reported on 7 June 2021, only sporadic imported cases or import-related cases had been recorded. In the recent two weeks, the 7-day moving average number of imported-related cases dropped from 3.3 to 1.0. For the four intermittent import-related cases on 24 June, 27 June, 2 July and 11 July 2021 with community exposure, about 470 close contacts (including close contacts of family members) were quarantined. Only one close contact (a co-worker) has been confirmed so far, while all other close contacts have

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.

been tested negative. Quarantine of all close contacts will end before 31 July 2021.

4. Globally, in the preceding week (5 to 11 July 2021), there were nearly 3 million new cases, with a 10% increase compared to the previous week; and the number of weekly deaths increased by 3%, with over 55 000 deaths reported in the period. The geographic extent of variants of concern (“VOC”) continues to expand, with many countries reporting an increase in the number and proportion of VOCs associated with increasing transmissibility and/or severity. In particular, the rapid spread of the Delta variant which is more transmissible than the original COVID-19 strain and the Alpha variant, has resulted in surges in the number of cases in many areas, including countries (such as the United Kingdom and Israel) that successfully rolled out COVID-19 vaccination schemes with high vaccination coverage. With the new variants spreading globally, higher vaccination rates would be required to avert massive community outbreaks triggered by imported cases.

5. Having regard to the above, while the epidemic situation has stabilised in recent weeks, we still need to maintain vigilance to guard against potential outbreaks caused by import-related cases which would likely involve more transmissible VOC. 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.

ALLOWING MORE ACTIVITIES TO RESUME UNDER 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 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. The first and second phases of relaxation measures under “vaccine bubble” took effective on 29 April and 24 June 2021 respectively.

7. Events such as meetings, forums, symposiums, exhibitions, ceremonial events or celebratory events are part of normal daily lives that

we are striving to return the community to as far as possible. We see a case to provide clarity and certainty to members of the public, including potential event organisers and participants, that such events may be held, subject to restrictions and requirements that ensure appropriate infection control measures on par with those imposed on activities of similar nature are in place. We thus introduced an additional type of scheduled premises, namely “event premises”, at which the aforementioned events may be held as “closed-door” events where effective access control measures would limit the persons who may attend the events. Having regard to the similar nature of wedding ceremonies and certain business meetings, which are currently exempted group gatherings under Cap. 599G, they may also continue to be held as specified events at event premises.

8. Hong Kong was recently ranked first on the “normalcy index” developed to quantify the return to pre-pandemic life by The Economist. Our capacity to undertake large-scale events (such as Art Basel 2021) while managing the transmission risks thereat was likely part of the reasons. Allowing resumption of more social and economic activities to resume in a controlled manner would be conducive to helping Hong Kong maintain the economic impetus under the current pandemic situation and lessen people’s fatigue arising from the prolonged fight against the epidemic.

Amendments to Cap. 599F

9. To achieve the above, amendments to Cap. 599F have been made to add “event premises” to Part 1 of Schedule 2 to Cap. 599F such that it would become one of the scheduled premises. This would allow us to provide certainty to the public that certain closed-door activities may take place subject to prescribed restrictions and requirements imposed on a “premises basis” while ensuring the group gatherings on event premises may take place under the prevailing provisions of Cap. 599G³.

10. Organisers of such activities, in addition to maintaining effective access control to the relevant premises, would be required to ensure compliance with the infection control measures while being empowered to do so as appropriate, similar to managers of scheduled premises, under Cap. 599F. The infection control measures to which event premises would be subject to would be on par with other scheduled premises on which similar activities are held.

³ 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.

Amendments to Cap. 599G

11. By introducing “event premises” as a new type of scheduled premises where specified events may take place, the latter would already cover certain types of group gatherings that are currently exempted with conditions under Cap. 599G, viz. wedding ceremonies and certain business meetings². For the sake of consistency and in order to ensure appropriate infection control measures are also put in place for these group gatherings, we amended Cap. 599G to remove wedding ceremonies and certain business meetings from the list of exempted group gatherings under Cap. 599G⁴, thereby regulating these activities as specified events held at event premises under the framework of Cap. 599F.

OTHER OPTIONS

12. There is no other appropriate option that may enable the implementation of the measures apart from the legislative amendments under the Amendment Regulations.

THE AMENDMENT REGULATIONS

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

LEGISLATIVE TIMETABLE

14. The legislative timetable is as follows –

Publication in the Gazette	20 July 2021
Tabling at the Legislative Council	21 July 2021
Commencement	22 July 2021

IMPLICATIONS OF THE PROPOSALS

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

⁴ Group gatherings during religious activities (other than wedding ceremonies) held at places of worship where no food or drink is served, except as part of a religious ritual, would continue to be exempted from Cap. 599G as a type of exempted group gatherings.

PUBLIC CONSULTATION

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

PUBLICITY

17. We issued a press release on the legislative amendments and social distancing measures, and gazetted the Amendment Regulations on 20 July 2021. A spokesperson was also made available to respond to public or media enquiries.

BACKGROUND

18. 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.

19. 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.

20. 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

21. 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);
- (o) hotel/guesthouse (added in November 2020); and
- (p) cruise ship (added in June 2021).

22. 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 (except for cruise ship) have been allowed to resume operation subject to restrictions and requirements by end April 2021. Cruise ships operating cruise-to-nowhere itineraries would resume operation starting from end July 2021.

Cap. 599G

23. 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.

24. 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

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

Food and Health Bureau
July 2021

Prevention and Control of Disease (Requirements and Directions) (Business and Premises) (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 22 July 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 7.

3. Section 2 amended (interpretation)

(1) Section 2, English text, definition of *specified disease*—

Repeal the full stop

Substitute a semicolon.

(2) Section 2—

Add in alphabetical order

“event premises (活動場所) means the premises set out in item 17 of Part 1 of Schedule 2;

organizer (組織者), in relation to a specified event, means a person who organizes the event;

specified event (指明活動) means an event (including a meeting, forum, symposium, exhibition, ceremonial event

and celebratory event) that satisfies the following conditions—

- (a) the organizer of the event adopts access control measures to check the persons who intend to enter the event premises for their authority or eligibility for being present at the event;
- (b) only the following persons are present at the event—
 - (i) the organizer;
 - (ii) any person who provides services in relation to the event; and
 - (iii) any person who—
 - (A) attends the event pursuant to an invitation to do so made by or on behalf of the organizer specifically to the person or a particular group of persons to which the person belongs;
 - (B) attends the event pursuant to a prior acceptance by or on behalf of the organizer of the person’s offer or request to attend the event;
 - (C) attends the event as a representative of a body or organization that was specifically invited by or on behalf of the organizer to send representatives to attend the event; or
 - (D) holds a permit to attend the event given by or on behalf of the organizer before the commencement of the event; and
- (c) the event is not an exempted group gathering (as defined by section 2 of the Prevention and Control

of Disease (Prohibition on Group Gathering) Regulation (Cap. 599 sub. leg. G)).”.

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

(1) Section 9, heading, after “**premises**”—

Add

“**and organizer of specified event**”.

(2) Section 9(1), after “scheduled premises”—

Add

“(other than event premises), or the organizer of a specified event held on event premises.”.

(3) Section 9(2), after “manager”—

Add

“or an organizer”.

5. Section 9AAB amended (powers of managers and police officers as regards directions for scheduled premises)

Section 9AAB(5)—

Repeal the definition of *manager*

Substitute

“*manager* (管理人) includes—

- (a) in relation to scheduled premises that are event premises, the organizer of the specified event for which the premises are for the time being used; and
- (b) a person authorized by a manager or an organizer referred to in paragraph (a) for the purposes of this section.”.

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

After section 12(1)(b)—

Add

“(ba) require the organizer of a specified event held on event premises—

- (i) to produce a book, document or any other article in the organizer’s possession that relates to the event; or
- (ii) to furnish any information in the organizer’s possession that relates to the event;”.

7. Schedule 2 amended (scheduled premises)

(1) Schedule 2, Part 1—

Add

“17. Premises that—

- (a) are not—
 - (i) private premises; or
 - (ii) a place of public entertainment; and
- (b) are for the time being used, with the consent of the owner, manager or tenant of the premises, for holding a specified event”.

(2) Schedule 2, Part 2, section 1—

Add in alphabetical order

“*private premises* (私人處所) means any premises to which the public may not, or are not permitted to, have access from time to time (whether by payment or otherwise);”.

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*) to—

- (a) add certain premises (*event premises*) that are used for holding an event in which only certain specified persons are present (*specified event*) to Part 1 of Schedule 2 to the principal Regulation;
- (b) provide that the organizer of a specified event held on event premises must comply with the directions issued by the Secretary for Food and Health under the principal Regulation; and
- (c) empower the organizer to—
 - (i) require persons who enter, or are present on, the event 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.

Prevention and Control of Disease (Prohibition on Group Gathering) (Amendment) (No. 5) 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 22 July 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, 4 and 5.

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

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

Repeal

“9B, 11A,”.

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

Repeal the Note

Substitute

“Note without legislative effect—

For ease of reference—

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

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

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

Repeal

“9B, 11A,”.

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

Repeal the Note

Substitute

“Note without legislative effect—

For ease of reference—

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

5. Schedule 1 amended (exempted group gatherings)

- (1) Schedule 1, Part 1—

Repeal items 9A, 9B, 11 and 11A.

- (2) Schedule 1, English text, Part 1, item 20(b)—

Repeal

“in the gathering”.

- (3) Schedule 1, Part 2, section 1—

Repeal the definition of *specified business meeting*.

- (4) Schedule 1, Chinese text, Part 2, section 1, definition of *工作人員*, paragraph (d)—

Repeal

“員；”

Substitute

“員。”.

Clerk to the Executive Council

COUNCIL CHAMBER

2021

Explanatory Note

The Prevention and Control of Disease (Requirements and Directions) (Business and Premises) (Amendment) (No. 4) Regulation 2021 amends the Prevention and Control of Disease (Requirements and Directions) (Business and Premises) Regulation (Cap. 599 sub. leg. F) (*Cap. 599F*) to, among other things, add to Part 1 of Schedule 2 to Cap. 599F certain premises that are for the time being used for holding certain specified events.

2. This Regulation consequentially amends the Prevention and Control of Disease (Prohibition on Group Gathering) Regulation (Cap. 599 sub. leg. G) (*Cap. 599G*) to repeal the exemption for group gatherings during wedding ceremonies or certain business meetings, so that they are to be regulated under Cap. 599F.
3. This Regulation also makes a minor textual amendment to the English text of item 20(b) of Part 1 of Schedule 1 to Cap. 599G.