

立法會
Legislative Council

LC Paper No. LS1/20-21

**Paper for the House Committee Meeting
on 16 October 2020**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 29 September 2020**

Tabling in LegCo : Council meeting of 14 October 2020

Amendment to be made by : Council meeting of 11 November 2020 (or that of 2 December 2020 if extended by resolution)

Compulsory Quarantine of Certain Persons Arriving at Hong Kong (Amendment) (No. 7) Regulation 2020 (L.N. 198)

Compulsory Quarantine of Persons Arriving at Hong Kong from Foreign Places (Amendment) (No. 4) Regulation 2020 (L.N. 199)

Prevention and Control of Disease (Requirements and Directions) (Business and Premises) (Amendment) (No. 6) Regulation 2020 (L.N. 200)

Prevention and Control of Disease (Prohibition on Group Gathering) (Amendment) (No. 11) Regulation 2020 (L.N. 201)

Prevention and Control of Disease (Regulation of Cross-boundary Conveyances and Travellers) (Amendment) Regulation 2020 (L.N. 202)

Prevention and Control of Disease (Wearing of Mask) (Amendment) (No. 2) Regulation 2020 (L.N. 203)

L.N. 198 to L.N. 203 are made by the Chief Executive in Council under section 8 of the Prevention and Control of Disease Ordinance (Cap. 599) having regard to the latest situation of public health emergency¹ relating to COVID-19.

¹ Public health emergency is defined in section 8(5) of Cap. 599 to mean, among others, the occurrence of or the imminent threat of a disease, an epidemic or a pandemic that has a high probability of causing a large number of deaths or serious disabilities (whether or not long-term) in the population.

L.N. 198

2. Under the Compulsory Quarantine of Certain Persons Arriving at Hong Kong Regulation (Cap. 599C), persons arriving at Hong Kong from a place in China other than Hong Kong who has stayed in any place specified by the Secretary for Food and Health ("the Secretary") before the persons' arrival are placed under compulsory quarantine for 14 days from the date of arrival. This quarantine requirement does not apply to a person who has stayed in any place that is a Category 2 specified place in China² or a Category 2 specified foreign place as defined by section 2 of the Compulsory Quarantine of Persons Arriving at Hong Kong from Foreign Places Regulation (Cap. 599E)³ before arrival if certain specified conditions are met.

3. L.N. 198 amends Cap. 599C to:

- (a) empower the Secretary, by notice published in the Gazette (which is not subsidiary legislation and hence not subject to amendment by the Legislative Council ("LegCo")) to specify any category of persons for a Category 2 specified place in China if the Secretary is satisfied that the persons have a substantial connection with Hong Kong, or the persons' travelling is necessary for purposes that are in the interest of Hong Kong's economic development or otherwise serves the public interest of Hong Kong;
- (b) provide that if a category of persons is so specified by the Secretary for a specified place under paragraph 3(a) above, the exemption from compulsory quarantine requirement applies to the category of persons;
- (c) empower the Secretary to specify different conditions for different categories of persons specified for a place under Cap. 599C; and

² The Secretary may, by notice published in Gazette, specify any place in China other than Hong Kong as a Category 1 or a Category 2 specified place in China under section 12 of Cap. 599C. By G.N. (E.) 54 of 2020 published in the Gazette on 2 June 2020, the Secretary has specified, with effect from 5 June 2020, all places in China outside Hong Kong as Category 1 specified places in China for the purposes of Cap. 599C. The Secretary has not specified any place as a Category 2 specified place in China so far.

³ The Secretary may, by notice published in Gazette, specify any place outside China as a Category 1 or a Category 2 specified foreign place under section 12 of Cap. 599E. By G.N. (E.) 55 of 2020 published in the Gazette on 2 June 2020, the Secretary has specified, with effect from 5 June 2020, all places outside China as Category 1 specified foreign places for the purposes of Cap. 599E. The Secretary has not specified any place as a Category 2 specified foreign place so far.

- (d) extend the expiry date of Cap. 599C from 7 October 2020 to 31 December 2020.

L.N. 199

4. Under Cap. 599E, persons arriving at Hong Kong from a place outside China who has stayed in any place specified by the Secretary before the person's arrival are placed under compulsory quarantine for 14 days from the date of arrival. This quarantine requirement does not apply to a person who has stayed in any place that is a Category 2 specified foreign place or a Category 2 specified place in China under Cap. 599C before arrival if certain specified conditions are met.

5. L.N. 199 amends Cap. 599E to:

- (a) empower the Secretary, by notice published in the Gazette (which is not subsidiary legislation and hence not subject to amendment by LegCo) to specify any category of persons for a Category 2 specified foreign place if any of the same conditions as stated in paragraph 3(a) above is satisfied;
- (b) provide that if a category of persons is so specified by the Secretary for a specified foreign place under paragraph 5(a) above, the exemption from compulsory quarantine requirement applies to the category of persons; and
- (c) empower the Secretary to specify different conditions for different categories of persons specified for a place under Cap. 599E.

L.N. 200

6. The Prevention and Control of Disease (Requirements and Directions) (Business and Premises) Regulation (Cap. 599F) imposes certain requirements, and enables directions to be issued by the Secretary, in respect of any catering business and certain scheduled premises as set out in Part 1 of Schedule 2 to Cap. 599F including certain sports premises.

7. L.N. 200 amends the definition of "sports premises" in Schedule 2 to Cap. 599F to clarify that "sports premises" means any premises (other than a fitness centre, a place of amusement and a swimming pool) designed, and for the time being used, for indoor or outdoor sporting activities (whether on land or not).

L.N. 201

8. The Prevention and Control of Disease (Prohibition on Group Gathering) Regulation (Cap. 599G) prohibits group gathering of more than four persons in any public place during a specified period and provides for certain exemptions. L.N. 201 amends Cap. 599G to:

- (a) provide that a group gathering at premises subject to a direction issued under section 6 or 8 of Cap. 599F ("Cap. 599F direction") is exempted from the prohibition under Cap. 599G if during such a group gathering, all requirements and restrictions as specified in the relevant Cap. 599F direction are complied with;
- (b) provide that it is a defence for a person who is charged with an offence under section 6(1) of Cap. 599G in respect of a prohibited group gathering to establish that, at the time of the alleged offence, the person had not contravened any requirement or restriction that was specified in the relevant Cap. 599F direction and applicable to the person, or there was no such applicable requirement or restriction; and
- (c) add an exemption for religious activities (other than a wedding ceremony) held at religious worship premises (including a church, monastery or temple etc.) so that such gatherings are no longer subject to the prohibition under Cap. 599G if certain conditions (including restricting the number of participants in the activities and the service of food and drink at the premises) are met, and make a corresponding adjustment to the exemption of group gathering during a wedding ceremony.

L.N. 202

9. L.N. 202 extends the expiry date of the Prevention and Control of Disease (Regulation of Cross-boundary Conveyances and Travellers) Regulation (Cap. 599H) from 14 October 2020 to 31 December 2020. In gist, Cap. 599H provides a mechanism under which regulatory measures may be imposed on cross-boundary conveyances (i.e. aircraft or vessels) arriving (or about to arrive) at Hong Kong from a place outside Hong Kong and certain persons on those conveyances.

L.N. 203

10. L.N. 203 extends the expiry date of the Prevention and Control of Disease (Wearing of Mask) Regulation (Cap. 599I) from 14 October 2020 to 31 December 2020. In gist, Cap. 599I requires a person, subject to certain

exceptions, to wear a mask at all times while boarding or on board a public transport carrier, or entering or present in an MTR paid area or a specified public place (including any place which for the time being the public or a section of the public may or are permitted to have access, whether on payment or otherwise) during a period specified by the Secretary.

Consultation

11. As advised by the Clerk to the Panel on Health Services, the Panel has not been consulted on L.N. 198 to L.N. 203.

Commencement

12. Except the provisions in L.N. 201 relating to exempted group gatherings as stated in paragraph 8(c) above that came into operation on 2 October 2020, L.N. 198 to L.N. 203 came into operation on 30 September 2020.

13. As of the date of this report, no LegCo Brief has been issued by the Administration.

Concluding observations

14. No difficulties have been identified in relation to the legal and drafting aspects of L.N. 198 to L.N. 203.

Other matters

Government notices made by the Secretary under Cap. 599F

Latest requirements and directions in relation to catering business

15. By G.N. (E.) 147 of 2020 published in the Gazette on 29 September 2020, the Secretary has specified and directed that for a period of seven days from 2 October 2020 to 8 October 2020, in respect of all catering businesses, except (i) those set out in Part 1 of Schedule 1 to Cap. 599F,⁴ or (ii) those designated by the Chief Secretary for Administration pursuant to section 7A(1) of Cap. 599F to be exempt from the requirements and directions under Cap. 599F, the selling or supplying of food or drink for consumption on

⁴ The relevant premises are (1) hospitals; (2) residential care homes; (3) treatment centres; (4) boarding schools; (5) premises controlled or managed by the Government; and (6) premises constructed to be used, and used, as private dwellings.

the premises of the catering business must be ceased, and any such premises (or part thereof) where food or drink is sold or supplied for consumption on the premises must be closed, from 0:00 am to 4:59 am every day, with the result that dine-in services can operate until 11:59 pm every night. Protective measures (e.g. wearing masks, body temperature screening and provision of hand sanitisers) are extended. Other restrictions, such as suspension of live performance and dancing, and no more than four persons being seated together at one table, continue to be effective.

16. By G.N. (E.) 155 of 2020 published in the Gazette on 6 October 2020, the measures set out in G.N. (E.) 147 of 2020 are extended for a period of seven days from 9 October 2020 to 15 October 2020.

Latest directions in relation to scheduled premises

17. By G.N. (E.) 148 of 2020 published in the Gazette on 29 September 2020, the Secretary has directed that all 14 types of scheduled premises⁵ under Cap. 599F may open for a period of seven days from 2 October 2020 to 8 October 2020, subject to the requirements and restrictions detailed at Annex to G.N. (E.) 148 of 2020.

18. By G.N. (E.) 156 of 2020 published in the Gazette on 6 October 2020, the measures set out in G.N. (E.) 148 of 2020 are extended for a period of seven days from 9 October 2020 to 15 October 2020 with a modification to the specified requirements and restrictions relating to the place of amusement for public skating rink, with the result that team sports can now be conducted in a public skating rink.

Government notices made by the Secretary under Cap. 599G

19. In respect of the prohibition on group gatherings, the Secretary has, pursuant to section 4(1) of Cap. 599G, specified by G.N. (E.) 157 of 2020 published in the Gazette on 6 October 2020 the seven-day period from 9 October to 15 October 2020, during which no group gatherings of more than four persons may take place in any public place under section 3(1) of Cap. 599G. G.N. (E.) 157 of 2020 replaces the previous Government notice on the period for the application of the group gathering prohibition (i.e. G.N. (E.) 149 of 2020 published in the Gazette on 29 September 2020).

⁵ Those scheduled premises are: (1) amusement game centre; (2) bathhouse; (3) fitness centre; (4) place of amusement; (5) place of public entertainment; (6) party room for social gatherings; (7) beauty parlour; (8) club-house; (9) club/nightclub; (10) karaoke establishment; (11) mahjong-tin kau premises; (12) massage establishment; (13) sports premises; and (14) swimming pool.

Government notices made by the Secretary under Cap. 599I

20. By G.N. (E.) 158 of 2020 published in the Gazette on 6 October 2020, the Secretary has, pursuant to section 3(1) of Cap. 599I, specified the seven-day period from 9 October 2020 to 15 October 2020 during which a person must wear a mask at all times while boarding or on board a public transport carrier, or entering or present in an MTR paid area or a specified public place, save for any outdoor public places in any country parks and special areas as defined in section 2 of the Country Parks Ordinance (Cap. 208). G.N. (E.) 158 of 2020 replaces the previous Government notice on the period for the application of the requirement to wear masks (i.e. G.N. (E.) 150 of 2020 published in the Gazette on 29 September 2020).

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14 October 2020