

立法會
Legislative Council

LC Paper No. LS19/20-21

**Paper for the House Committee Meeting
on 4 December 2020**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 1 December 2020**

Tabling in LegCo : Council meeting of 2 December 2020

Amendment to be made by : Council meeting of 16 December 2020 (or that of 20 January 2021 if extended by resolution)

Prevention and Control of Disease (Prohibition on Group Gathering) (Amendment) (No. 14) Regulation 2020 **(L.N. 235)**

L.N. 235 is made by the Chief Executive in Council under section 8 of the Prevention and Control of Disease Ordinance (Cap. 599) with regard to the latest situation of public health emergency¹ relating to COVID-19.

2. L.N. 235 amends the Prevention and Control of Disease (Prohibition on Group Gathering) Regulation (Cap. 599G) to:

- (a) tighten the number of persons constituting a "group gathering" prohibited under Cap. 599G from more than four to more than two;
- (b) amend section 10 of Cap. 599G on gatherings that may be dispersed so as to adjust the number of persons constituting such gatherings from more than four to more than two;
- (c) tighten the number of persons constituting "exempted group gatherings" under items 9A and 11 of Schedule 1 to Cap. 599G during a wedding ceremony, or the meeting of a body or a listed company, at which no food or drink is served from not more than 50 to not more than 20; and

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.

- (d) repeal the exemptions for group gatherings during religious activities (other than a wedding ceremony) and local tours under items 15 and 16 of Schedule 1 to Cap. 599G.

3. As of the date of this report, no Legislative Council ("LegCo") Brief has been issued by the Administration on L.N. 235.
4. As advised by the Clerk to the Panel on Health Services, the Panel has not been consulted on L.N. 235.
5. L.N. 235 came into operation on 2 December 2020.
6. No difficulties have been identified in relation to the legal and drafting aspects of L.N. 235.

Other matters

7. During the period from 26 November to 1 December 2020, the Secretary for Food and Health ("Secretary") has made the following Government notices² published in the Gazette.

Government notice made by the Secretary for Food and Health under the Prevention and Control of Disease (Prohibition on Group Gathering) Regulation (Cap. 599G)

8. In respect of the prohibition on group gatherings, the Secretary has, pursuant to section 4(1) of Cap. 599G, specified by G.N. (E.) 227 of 2020 published in the Gazette on 1 December 2020 the 14-day period from 2 to 15 December 2020, during which no group gatherings of more than two persons may take place at a public place and at any premises in relation to which a direction issued under section 6 or 8 of the Prevention and Control of Disease (Requirements and Directions) (Business and Premises) Regulation (Cap. 599F) is in force. G.N. (E.) 227 of 2020 replaces the previous Government notice on the period for the application of the group gathering prohibition (i.e. G.N. (E.) 215 of 2020 published in the Gazette on 24 November 2020).

Government notices made by the Secretary for Food and Health under the Prevention and Control of Disease (Compulsory Testing for Certain Persons) Regulation (Cap. 599J)

9. By G.N. (E.) 218, 220, 221 and 228 of 2020 published in the Gazette on 26 November, 30 November and 1 December 2020, the Secretary has, pursuant to section 10(1) of Cap. 599J, specified, among others, the following categories of persons

² These Government notices are not subsidiary legislation and, as such, are not required to be tabled before, and are not subject to amendment by, LegCo.

who must undergo a polymerase chain reaction-based nucleic acid test for COVID-19 ("specified test"):

- (a) any person who had been present at any of: (i) the five specified premises,³ or (ii) the two specified premises⁴ and participated in classes involving two or more students, at any time during the period from 1 to 26 November 2020 must undergo the specified test on or before 29 November 2020 and report the test result to the Government by 2 December 2020;
- (b) any person who had been present at any of the three specified premises⁵ at any time during the period from 15 to 29 November 2020 must undergo the specified test on or before 3 December 2020 and report the test result to the Government by 6 December 2020;
- (c) any person (including full-time, part-time and relief staff) who, at any time during the period from 15 to 21 December 2020: (i) is employed by and on duty at the premises of any residential care home for the elderly ("RCHE") or for persons with disabilities ("RCHD") (except any of the seven specified premises located on Cheung Chau or Lantau Island⁶), or (ii) through a hire-of-service contract provides services to resident(s) of the aforementioned RCHE or RCHD, must undergo the specified test during the period from 1 to 14 December 2020; and
- (d) any person who had been present at any of the three specified premises⁷ at any time during the period from 15 November to 1 December 2020 must undergo the specified test on or before 4 December 2020 and report the test result to the Government by 7 December 2020.

10. Pursuant to Cap. 599J, the Secretary has also:

- (a) specified the 30-day periods (i.e. 30 November to 29 December 2020, 4 December 2020 to 2 January 2021, 15 December 2020 to 13 January 2021, and 5 December 2020 to 3 January 2021) during which a compulsory testing

³ The five specified premises are (1) Lucky Dragon Restaurant (Shek Kip Mei); (2) Lucky Dragon Palace Restaurant (Wong Tai Sin); (3) Bandstage Live Music, Wong Tai Sin; (4) Rendezvous Arts Center, Prince Edward Road West, and (5) A&B Dance Studio, Causeway Bay.

⁴ The two specified premises are (1) Phillip Wain (Tsim Sha Tsui) and (2) Phillip Wain (Causeway Bay).

⁵ The three specified premises are (1) Stellar House, Wanchai; (2) Otto e Mezzo 8½ BOMBANA, Alexandra House, Central, and (3) Chuen Cheung Kui Restaurant, Alliance Building, Sheung Wan.

⁶ The seven specified premises are (1) Chung Shak Hei (Cheung Chau) Home for the Aged; (2) Wan Ho Kan Care and Attention Home; (3) Tung Ming Convalescent Home; (4) Cheung Chau Dah Yat Nursing and Old Aged Centre; (5) Tung Ming Convalescent Home Pak She Branch; (6) Silver View Centre for the Aged, and (7) Lai Lai Nursing Centre Limited.

⁷ The three specified premises are (1) Pine Tree Hill Seafood, Tsim Sha Tsui; (2) Sky Cuisine (Sheung Wan), and (3) Construction site of Phase 9, LOHAS Park, Tseung Kwan O.

order may be issued under Cap. 599J upon non-compliance with a requirement under G.N. (E.) 218, 220, 221 and 228 of 2020 respectively; and

- (b) appointed prescribed officers⁸ who, in addition to health officers, may perform a function under Cap. 599J concerning a failure to comply with a requirement under the compulsory testing notices published in G.N.(E.) 211, 212, 218, 220, 221, and 228 of 2020.

11. By G.N. (E) 219 of 2020 published in the Gazette on 27 November 2020, the Secretary has, pursuant to section 3 of Cap. 599J:

- (a) specified that all medical practitioners registered in Parts I and III of the General Register kept under section 6(1) of the Medical Registration Ordinance (Cap. 161) may, during the period of 14 days from 28 November to 11 December 2020, exercise the power to require, by a compulsory testing direction, a person whom the medical practitioner attends to in the course of professional practice and clinically suspects to have contracted COVID-19 to undergo the specified test; and
- (b) appointed all members of the Auxiliary Medical Service and all police officers for performing a function under Cap. 599J concerning a failure to comply with a requirement under a compulsory testing direction.

Government notice made by the Secretary for Food and Health under the Prevention and Control of Disease (Regulation of Cross-boundary Conveyances and Travellers) Regulation (Cap. 599H)

12. By G.N. (E.) 222 of 2020 published in the Gazette on 30 November 2020, the Secretary has, with effect from 7 December 2020, added Romania as a specified place⁹ to which Cap. 599H is applicable, and specified a set of conditions (e.g. to produce documentary proof on a negative nucleic acid test result for COVID-19) applicable in respect of a person who, on the day of boarding a civil aviation aircraft that arrives or is about to arrive at Hong Kong, or during the 14 days before that day, has stayed in any of the specified places. Upon the commencement of G.N. (E.) 222 of 2020 on 7 December 2020, the previous Government notice for the regulation of cross-boundary conveyances and travellers with effect from 28 November 2020 (i.e. G.N. (E.) 207 of 2020 published in the Gazette on 19 November 2020) will be suspended.

⁸ These officers include members of the Auxiliary Medical Service (see G.N. (E.) 211, 212, 218, 220, 221, and 228 of 2020).

⁹ Other specified places are (1) Bangladesh, (2) Belgium, (3) Ecuador, (4) Ethiopia, (5) France, (6) Germany, (7) India, (8) Indonesia, (9) Kazakhstan, (10) Nepal, (11) Pakistan, (12) the Philippines, (13) Russia, (14) South Africa, (15) Turkey, (16) United Kingdom, (17) United States of America, and (18) all other countries except China.

Government notices made by the Secretary for Food and Health under the Prevention and Control of Disease (Requirements and Directions) (Business and Premises) Regulation (Cap. 599F)

13. Members may wish to note that the Secretary has, pursuant to Cap. 599F, imposed and issued various requirements and directions in relation to catering business and scheduled premises. The latest requirements and directions are summarized in paragraphs 14 and 15 below.

Latest requirements and directions in relation to catering business

14. By G.N. (E.) 223 of 2020 published in the Gazette on 30 November 2020, the Secretary has specified and directed that for a period of 14 days from 2 to 15 December 2020, in respect of all catering businesses, except (i) those set out in Part 1 of Schedule 1 to Cap. 599F,¹⁰ 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 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 10:00 pm to 4:59 am of the subsequent day, with the result that dine-in services can now only operate until 9:59 pm (as opposed to 11:59 pm under G.N. (E.) 213 of 2020 published in the Gazette on 24 November 2020) every night. No more than two (as opposed to four under G.N. (E.) 213 of 2020) persons may be seated together at one table within any catering premises. No live performance, dancing, karaoke or mahjong-tin kau activities are allowed. Protective measures (e.g. wearing masks except when consuming food or drink at a table, body temperature screening, provision of hand sanitisers and display of the LeaveHomeSafe venue QR code obtained at the entrance of the premises) are required. G.N. (E.) 213 of 2020 has been suspended upon the commencement of the specification and directions of G.N. (E.) 223 of 2020 on 2 December 2020.

Latest directions in relation to scheduled premises

15. By G.N. (E.) 224 of 2020 published in the Gazette on 30 November 2020, the Secretary has directed that, for a period of 14 days from 2 to 15 December 2020:

- (a) eight types of scheduled premises¹¹ as set out in Part 1 of Schedule 2 to Cap. 599F must be closed;

¹⁰ 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.

¹¹ Those scheduled premises are: (1) amusement game centre; (2) bathhouse; (3) place of amusement; (4) party room for social gatherings; (5) club/nightclub; (6) karaoke establishment; (7) mahjong-tin kau premises, and (8) swimming pool.

- (b) six types of scheduled premises¹² as set out in Part 1 of Schedule 2 to Cap. 599F may open subject to the requirements and restrictions detailed at Annex to G.N. (E.) 224 of 2020 ("Annex");¹³ and
- (c) places of public entertainment as set out in Part 1 of Schedule 2 to Cap. 599F (including cinemas, museums and theme parks) must be closed, except venues for live performance, which may be open subject to the requirements and restrictions detailed at Annex (e.g. no live audience, eating or drinking is allowed).

G.N. (E.) 214 of 2020 published in the Gazette on 24 November 2020 has been suspended upon the commencement of the directions specified in G.N. (E.) 224 of 2020 on 2 December 2020.

Government notice made by the Secretary for Food and Health under the Prevention and Control of Disease (Wearing of Mask) Regulation (Cap. 599I)

16. The Secretary has, pursuant to section 3(1) of Cap. 599I, specified by G.N. (E.) 225 of 2020 (published in the Gazette on 30 November 2020) the 14-day period from 2 to 15 December 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.) 216 of 2020 (published in the Gazette on 24 November 2020) has been suspended upon the commencement of the specification stated in G.N. (E.) 225 of 2020 on 2 December 2020.

Prepared by

Cliff IP
Assistant Legal Adviser
Legislative Council Secretariat
3 December 2020

¹² Those scheduled premises are: (1) fitness centre; (2) beauty parlour; (3) club-house; (4) massage establishment; (5) sports premises, and (6) hotel and guesthouse.

¹³ For example, no more than two persons may be allowed (a) at each fitness station, etc. in the case of a fitness centre, or (b) in each partitioned service area during the provision of beauty or massage service in the case of a beauty parlour or massage establishment.