

立法會
Legislative Council

LC Paper No. LS35/20-21

**Paper for the House Committee Meeting
on 19 February 2021**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 9 February 2021**

Tabling in LegCo : Council meeting of 24 February 2021

Amendment to be made by : Council meeting of 24 March 2021 (or that of 21 April 2021 if extended by resolution)

Prevention and Control of Disease (Compulsory Testing for Certain Persons) (Amendment) Regulation 2021 (L.N. 18)

The Prevention and Control of Disease (Compulsory Testing for Certain Persons) Regulation (Cap. 599J) introduces a mechanism for specified medical practitioners to issue written directions to require persons clinically suspected to have contracted COVID-19 to undergo a test for ascertaining whether the person has contracted COVID-19 ("specified test"), and for the Secretary for Food and Health ("Secretary") to issue compulsory testing notices to require certain categories or descriptions of persons to undergo a specified test. Members may refer to the Legal Service Division's report issued on 19 November 2020 (LC Paper No. LS10/20-21) for further details on Cap. 599J.

2. L.N. 18 amends Cap. 599J to extend its expiry date from 14 February 2021 to 14 August 2021.
3. As advised by the Clerk to the Panel on Health Services, the Panel has not been consulted on L.N. 18.
4. L.N. 18 came into operation on 10 February 2021.
5. According to paragraph 20 of the Legislative Council Brief on L.N. 18 (no file reference) issued by the Food and Health Bureau in February 2021, the Administration is of the view that given the exigency of the situation, public consultation is not feasible.
6. No difficulties have been identified in relation to the legal and drafting aspects of L.N. 18.

Other matters

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

Latest requirements and directions in relation to catering business

7. By G.N. (E.) 72 of 2021 published in the Gazette on 2 February 2021, the Secretary has specified and directed that for a period of 14 days from 4 February to 17 February 2021, in respect of all catering businesses, except those exempted 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 6:00 pm to 4:59 am of the subsequent day so that dine-in services can now only operate until 5:59 pm every evening. 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 at the entrance of the premises) are extended. Other restrictions, such as suspension of live performance and dancing, and no more than two persons being seated together at one table, continue to be effective.

Latest directions in relation to scheduled premises

8. By G.N. (E.) 73 of 2021 published in the Gazette on 2 February 2021, the Secretary has directed that, for a period of 14 days from 4 to 17 February 2021:

- (a) 13 types of scheduled premises¹ as set out in Part 1 of Schedule 2 to Cap. 599F must be closed, except for certain outdoor sports premises²; and

¹ 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 holding social gatherings; (7) beauty parlour; (8) club or nightclub; (9) karaoke establishment; (10) mahjong-tin kau premises; (11) massage establishment; (12) sports premises; and (13) swimming pool.

² Those outdoor premises are: (1) athletic tracks in sports grounds; (2) tennis courts and tennis practice courts; (3) golf courses; (4) golf driving ranges and practice greens; (5) bowling greens; (6) shooting ranges; (7) archery ranges; (8) cycling parks; (9) horse riding schools; (10) radio-controlled model aircraft flying fields; (11) sea activities centres for water sports; (12) climbing walls; (13) gateball courts; (14) outdoor table tennis tables; and (15) outdoor badminton courts.

- (b) three types of scheduled premises (i.e. club-house, the outdoor sports premises referred to in footnote 2 above, and hotel/guesthouse) 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.) 73 of 2021.³

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

9. In respect of the prohibition on group gatherings, the Secretary has, pursuant to section 4(1) of Cap. 599G, specified by G.N. (E.) 74 of 2021 published in the Gazette on 2 February 2021 the 14-day period from 4 to 17 February 2021, 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 Cap. 599F is in force. G.N. (E.) 74 of 2021 replaces the previous Government notice on the period for the application of the group gathering prohibition (i.e. G.N. (E.) 53 of 2021 published in the Gazette on 26 January 2021).

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

10. In respect of the requirement to wear masks, the Secretary has, pursuant to section 3(1) of Cap. 599I, specified by G.N. (E.) 75 of 2021 published in the Gazette on 2 February 2021 the 14-day period from 4 to 17 February 2021, 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.) 75 of 2021 replaces the previous Government notice on the period for the application of the requirement to wear masks (i.e. G.N. (E.) 54 of 2021 published in the Gazette on 26 January 2021).

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

11. By G.N. (E.) 87 of 2021 published in the Gazette on 5 February 2021, the Secretary has specified the period of 14 days from 6 to 19 February 2021 during which all medical practitioners who are registered in Part I and Part III of

³ For example, the requirement that a person must wear a mask at all times within any club-house except when taking a shower, the requirement that staff involved in the operation of the outdoor sports premises to undergo a polymerase chain reaction-based nucleic acid test for COVID-19 once every 14 days, and the restriction that any part(s) of the hotel/guesthouse being used or operated as bathhouse must be closed.

the General Register kept under section 6(1) of the Medical Registration Ordinance (Cap. 161) may 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 a specified test, and appointed all members of the Auxiliary Medical Services and all police officers to perform a function under Cap. 599J concerning a requirement specified under a compulsory testing direction.

12. By G.N. (E.)s 10, 11, 14 to 27, 34 to 40, 42 to 45, 47 to 50, 55 to 57, 60 to 71, 76 to 86, 88 to 93, 95, 96, and 98 to 105 of 2021 published in the Gazette from 6 January to 16 February 2021, the Secretary has specified the following categories of persons to be persons who must undergo a polymerase chain reaction-based nucleic acid test for COVID-19 within certain periods as specified in the relevant Government notices:

- (a) persons who (i) were present in any capacity (e.g. residents, visitors and workers) at certain specified premises⁴ during certain specified periods from 15 December 2020 to 16 February 2021, and (ii) when a restriction-testing declaration became effective in respect of those premises, were either present or not present in the restricted area identified in the declaration;
- (b) persons employed by and on duty, engaged to provide service, or intending to work or provide hired service at residential care homes for the elderly and for persons with disabilities, nursing homes, and the Airport Area during certain specified periods from 28 January to 31 March 2021; and
- (c) those who had lived with a person placed under quarantine in the same place of residence 14 days prior to or at the commencement of quarantine.

13. The Secretary has also specified certain periods as the periods during which a compulsory testing order may be issued under Cap. 599J for non-compliance with the relevant Government notices.

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⁴ Those premises include residential buildings, constructions sites, a hotel, and a clothing store.