

立法會
Legislative Council

LC Paper No. LS63/20-21

**Paper for the House Committee Meeting
on 16 April 2021**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 30 March 2021**

Tabling in LegCo : Council meeting of 21 April 2021

Amendment to be made by : Council meeting of 12 May 2021 (or that of 9 June 2021 if extended by resolution)

Prevention and Control of Disease (Prohibition on Group Gathering) (Amendment) (No. 2) Regulation 2021 (L.N. 48)

L.N. 48 is 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 emergency relating to COVID-19.

2. The Prevention and Control of Disease (Prohibition on Group Gathering) Regulation (Cap. 599G) mainly prohibits group gathering of more than a certain number of persons¹ in any public place² during a period specified by the Secretary for Food and Health ("Secretary") by notice published in the Gazette, and provides for certain exemptions.

3. L.N. 48 amends Schedule 1 to Cap. 599G to expand the scope of exempted group gatherings to include any group gathering during a religious activity (other than a wedding ceremony) held at any premises constructed or regularly used as a place of worship (including a church, monastery or nunnery, mosque, synagogue or temple) in which:

- (a) no food or drink is served (except as part of a religious ritual); and

¹ Under Cap. 599G as further amended by L.N. 28 of 2021, subject to certain exemptions, the maximum number of persons permitted to gather in a public place is relaxed from two to four with effect from 24 February 2021.

² The term "public place" is defined in section 2 of Cap. 599G to mean a place to which the public or a section of the public may or are permitted to have access from time to time, whether by payment or otherwise.

- (b) measures are in place for restricting the number of participants in the activity to not more than 30% of the number of persons that may normally be accommodated on the premises as a place of worship.

4. L.N. 48 also makes a corresponding amendment to the exemption for group gathering during a wedding ceremony to the effect that no food or drink may be served during the ceremony except as part of a religious ritual.

Consultation

5. According to paragraph 15 of the Legislative Council Brief (no file reference) issued by the Food and Health Bureau in March 2021, the Administration is of the view that given the exigency of the situation, public consultation was not feasible.

6. As advised by the Clerk to the Panel on Health Services, the Panel has not been consulted on L.N. 48.

Commencement

7. L.N. 48 came into operation on 31 March 2021.

Concluding Remarks

8. No difficulties have been identified in relation to the legal and drafting aspects of L.N. 48.

Other matters

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

9. By G.N. (E.)s 198 and 202 of 2021 published in the Gazette on 1 April 2021, the Secretary has specified four groups of specified places³ to which Cap. 599H is applicable and different conditions applicable to different

³ Brazil, Ireland, South Africa and United Kingdom are specified as Group A specified places; Bangladesh, Belgium, Canada, Ecuador, Ethiopia, France, Germany, India, Indonesia, Kazakhstan, Nepal, Pakistan, the Philippines, Romania, Russia, Switzerland, Turkey, Ukraine, United Arab Emirates and United States of America are specified as Group B specified places; Australia, New Zealand and Singapore are specified as Group D specified places; and all other countries except China and those specified as Group A, Group B or Group D specified places are specified as Group C specified places.

types of relevant travellers. Australia, New Zealand and Singapore are specified as Group D specified places such that travellers arriving at Hong Kong from (or who, during the 14 days before arrival, have stayed in) any of the Group D specified places are only required to provide documentary proof of confirmation of room reservation in a designated quarantine hotel in Hong Kong for not less than 14 nights. Upon the commencement of G.N. (E.)s 198 and 202 of 2021 on 9 April 2021, G.N. (E.)s 58 and 59 of 2021⁴ were suspended.

10. By G.N. (E.) 220 of 2021 published in the Gazette on 13 April 2021, the Secretary has also specified Egypt as one of the Group B specified places. Upon the commencement of G.N. (E.) 220 of 2021 on 20 April 2021, G.N. (E.) 198 of 2021 will be suspended.

Government notices made by the Secretary under the Compulsory Quarantine of Certain Persons Arriving at Hong Kong Regulation (Cap. 599C)

11. By G.N. (E.) 199 of 2021 published in the Gazette on 1 April 2021, the Secretary has specified 14 days to be the period that a person has stayed in a place before arrival at Hong Kong ("relevant period") and the quarantine period under Cap. 599C for a person arriving at Hong Kong from a place in China other than Hong Kong who has only stayed in a Group D specified place (i.e. Australia, New Zealand or Singapore) during the relevant period before arrival at Hong Kong. Upon the commencement of G.N. (E.) 199 of 2021 on 9 April 2021, G.N. (E.) 272 of 2020⁵ was suspended.

Government notices made by the Secretary under the Compulsory Quarantine of Certain Persons Arriving at Hong Kong from Foreign Places Regulation (Cap. 599E)

12. By G.N. (E.) 200 of 2021 published in the Gazette on 1 April 2021, the Secretary has specified 14 days to be the relevant period and the quarantine period under Cap. 599E for a person arriving at Hong Kong from and who has only stayed in a Group D specified place (i.e. Australia, New Zealand or Singapore) during the relevant period before arrival at Hong Kong. Upon the

⁴ By G.N. (E.)s 58 and 59 of 2021 published in the Gazette on 27 January 2021, the Secretary has specified three groups of specified places to which Cap. 599H is applicable and different conditions applicable to different types of relevant travellers (e.g. a person who, on the day of boarding a specified aircraft, or during the 21 days before that day, has stayed in any of the Group A specified places, is required to produce documentary proof of a negative nucleic acid test result for COVID-19 and confirmation of room reservation in a designated quarantine hotel in Hong Kong for not less than 21 nights).

⁵ By G.N. (E.) 272 of 2020 published in the Gazette on 24 December 2020, the Secretary has specified 21 days to be the relevant period and the quarantine period under Cap. 599C for any person arriving at Hong Kong from a place in China other than Hong Kong who has stayed in any place outside China before arrival at Hong Kong.

commencement of G.N. (E.) 200 of 2021 on 9 April 2021, G.N. (E.) 273 of 2020⁶ was suspended.

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

13. By G.N. (E.) 216 of 2021 published in the Gazette on 13 April 2021, the Secretary has specified and directed that for a period of 14 days from 15 to 28 April 2021:

- (a) in respect of catering businesses (except those exempted under Cap. 599F) adopting the following measures ("specified measures"):
 - (i) ensuring that a customer (except a customer who is ordering takeaway only) scans the LeaveHomeSafe venue QR code or registers his/her name, contact number and the date and time of his/her visit with written or electronic records (to be kept by the catering business for 31 days) before he/she is allowed to enter the premises; and
 - (ii) making arrangements for all staff involved in the operation of business on the premises to undergo a polymerase chain reaction-based nucleic acid test for COVID-19 ("specified test") every 14 days starting from 8 April 2021 ("required testing arrangement"); or, as an alternative, a staff member involved in the operation of the business on the premises does not need to adopt the required testing arrangement starting from the 14th day after he/she has completed a COVID-19 vaccination course and should keep the vaccination record as proof of vaccination,

the selling or supplying of food or drink for consumption on the premises of the catering business must be ceased, and any premises, or part thereof, where food or drink is sold or supplied for consumption on the premises ("catering premises") must be closed, from 10:00 pm to 4:59 am of the subsequent day;

⁶ By G.N. (E.) 273 of 2020 published in the Gazette on 24 December 2020, the Secretary has specified 21 days to be the relevant period and the quarantine period under Cap. 599E for a person arriving at Hong Kong from and who has stayed in any place outside China before arrival at Hong Kong.

- (b) in respect of catering businesses not adopting the specified measures, the selling or supplying of food or drink for consumption on the premises of the catering business must be ceased, and any catering premises where food or drink is sold or supplied must be closed, from 6:00 pm to 4:59 am of the subsequent day;
- (c) protective measures (e.g. wearing masks except when consuming food or drink at a table, body temperature screening, provision of hand sanitisers, and arranging dedicated staff for clearing used utensils and cleaning and disinfecting used tables and partitions) are extended; and
- (d) other requirements and restrictions, including compliance with specified requirements on air change or installation of air purifier, suspension of live performance and dancing, no more than four persons being seated together at one table for catering businesses adopting the specified measures, and no more than two persons being seated together at one table for catering businesses not adopting the specified measures, continue to be effective.

Latest directions in relation to scheduled premises

14. By G.N. (E.) 217 of 2021 published in the Gazette on 13 April 2021, the Secretary has directed that, for a period of 14 days from 15 to 28 April 2021:

- (a) five types of scheduled premises (i.e. bathhouse, party room for hire for holding social gatherings, club or nightclub, karaoke establishment, and mahjong-tin kau premises) as set out in Part 1 of Schedule 2 to Cap. 599F must be closed;
- (b) 10 types of scheduled premises (i.e. amusement game centre, fitness centre, place of amusement, place of public entertainment, beauty parlour, club-house, massage establishment, sports premises, swimming pool, and hotel and 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.) 217 of 2021⁷; and
- (c) in respect of the required testing arrangement which is applicable to certain types of scheduled premises, as an alternative, a staff member involved in the operation of the business on the premises does not need to adopt the required testing arrangement starting

⁷ For example, certain types of scheduled premises can be opened subject to the requirement that all staff involved in the operation of the business on the premises adopt the required testing arrangement.

from the 14th day after he/she has completed a COVID-19 vaccination course and should keep the vaccination record as proof of vaccination.

15. G.N. (E.) 217 of 2021 replaces the previous Government notice on directions in relation to scheduled premises (i.e. G.N. (E.) 203 of 2021 published in the Gazette on 1 April 2021).

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

16. In respect of the prohibition on group gatherings, the Secretary has, pursuant to section 4(1) of Cap. 599G, specified by G.N. (E.) 218 of 2021 published in the Gazette on 13 April 2021 the 14-day period from 15 to 28 April 2021, during which no group gatherings of more than four 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.) 218 of 2021 replaces the previous Government notice on the period for the application of the group gathering prohibition (i.e. G.N. (E.) 194 of 2021 published in the Gazette on 30 March 2021).

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

17. In respect of the requirement to wear masks, the Secretary has, pursuant to section 3(1) of Cap. 599I, specified by G.N. (E.) 219 of 2021 published in the Gazette on 13 April 2021 the 14-day period from 15 to 28 April 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.) 219 of 2021 replaces the previous Government notice on the period for the application of the requirement to wear masks (i.e. G.N. (E.) 195 of 2021 published in the Gazette on 30 March 2021).

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

18. By G.N. (E.) 205 of 2021 published in the Gazette on 1 April 2021, the Secretary has specified the period of 14 days from 3 to 16 April 2021 during which all medical practitioners who are registered in Part I and Part III of 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 Service and all

public officers of the Government to perform a function under Cap. 599J concerning a requirement specified under a compulsory testing direction.

19. By various government notices (including most recently G.N. (E.)s 204, 206, 207, 209 to 214, and 221 to 223 of 2021) published in the Gazette from 25 February to 14 April 2021, the Secretary has specified the following categories of persons to be persons who must undergo a specified test within the 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 premises during certain specified periods from 12 February to 14 April 2021, and (ii) when a restriction-testing declaration involving those premises became effective, 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 (including day service unit attached to such residential care homes), and nursing homes during the period from 13 March to 13 May 2021; and
- (c) persons aged 6 or above who arrive at Hong Kong on or after certain specified dates via any land boundary control points or the Hong Kong International Airport and are placed under quarantine pursuant to quarantine orders.

20. 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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