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**Paper for the House Committee on 4 June 2021**

**Sixth report of the Subcommittee on Subsidiary Legislation  
Relating to the Prevention and Control of Disease**

**Purpose**

This paper reports on the deliberations of the Subcommittee on Subsidiary Legislation Relating to the Prevention and Control of Disease ("the Subcommittee") on Prevention and Control of Disease (Requirements and Directions) (Business and Premises) (Amendment) (No. 2) Regulation 2021 (L.N. 52 of 2021) and Prevention and Control of Disease (Prohibition on Group Gathering) (Amendment) (No. 3) Regulation 2021 (L.N. 53 of 2021).

**L.N. 52 and L.N. 53 of 2021**

L.N. 52 of 2021

2. L.N. 52 amends the Prevention and Control of Disease (Requirements and Directions) (Business and Premises) Regulation (Cap. 599F) mainly to:

- (a) empower the Secretary for Food and Health ("SFH") to issue directions by notice published in the Gazette (such notice not being subsidiary legislation) imposing requirements or restrictions for different categories or descriptions of persons entering or present on any catering business premises or any scheduled premises;
- (b) require a person who enters, or is present on, any catering business premises or any scheduled premises to comply with any directions issued by SFH;

- (c) empower the manager<sup>1</sup> of the catering business premises and scheduled premises to require persons who enter or are present on those premises to provide records, documents or information that is necessary for compliance with the directions and to inspect and examine such records, documents or information;
- (d) provide that a person who contravenes the requirements as stated in (b) above commits an offence and is liable on conviction to a fine at level 3 (\$10,000) and provide for the payment of a fixed penalty to discharge the liability of the offence; and
- (e) provide that a person commits an offence and is liable on conviction to a fine at level 3 (\$10,000) if the person, in purported compliance with a requirement or request made by an authorized officer (i.e. a public officer appointed by SFH for the purposes of any provisions of Cap. 599F) in the performance of a function under Cap. 599F, knowingly or recklessly provides any record, document or information that is false or misleading in a material particular to the authorized officer.

L.N. 53 of 2021

3. L.N. 53 amends the Prevention and Control of Disease (Prohibition on Group Gathering) Regulation (Cap. 599G) mainly to provide for additional exempted group gatherings which are participated only by persons who meet certain conditions specified by SFH by notice published in the Gazette (which is not subsidiary legislation) ("qualified persons").<sup>2</sup> These exempted group gatherings ("vaccine bubble gatherings") are set out below, with the gatherings mentioned in paragraphs 3(a) to (c) abbreviated as "exempted qualified persons' gathering" and the gathering mentioned in paragraph 3(d) abbreviated as "exempted tour gathering" for the purposes of this report:

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<sup>1</sup> The manager is defined to mean the person who is responsible for the management or is in charge or control of the premises and includes a person authorized by a manager (section 2 of Cap. 599F).

<sup>2</sup> For classifying a person as a qualified person, SFH may specify one or more sets of conditions by reference to relevant factors. These factors include whether the person has been administered a vaccine within a certain time, whether the person has previously contracted the coronavirus disease 2019 ("COVID-19") within a certain time, whether the person has undergone a test within a certain time for ascertaining whether the person has contracted COVID-19, whether the person is clinically assessed to be unfit to be administered a vaccine, and the age of the person.

- (a) group gathering during a wedding ceremony at which no food or drink is served (except as part of a religious ritual) and is participated by not more than 50 persons (if held at an indoor place) and 100 persons (if held at an outdoor place) (as opposed to 20 persons (where not all such persons meet the conditions as specified by SFH) under item 9A of Part 1 of Schedule 1 to Cap. 599G);
- (b) group gathering during a specified business meeting (e.g. a meeting of a body or shareholders' meeting of a listed company held in accordance with any Ordinance or other regulatory instrument) at which no food or drink is served and
  - i. if the gathering is held at an indoor place and is participated by more than 50 persons—they are separated in different rooms or partitioned areas, each accommodating not more than 50 persons; and
  - ii. if the gathering is held at an outdoor place and is participated by more than 100 persons — they are separated in different partitioned areas, each accommodating not more than 100 persons.

This is opposed to requirements under item 11 of Part 1 of Schedule 1 to Cap. 599G, which provide that if the gathering is participated by more than 20 persons (where not all such persons meet the conditions as specified by SFH), those persons are separated in different rooms or partitioned areas, each accommodating not more than 20 persons;

- (c) group gathering during a religious activity (other than a wedding ceremony) that is held at a place of worship (including a church, monastery or nunnery, mosque, synagogue or temple) where no food or drink is served in the activity (except as part of a religious ritual) and the number of participants in the activity is restricted to not more than 50% (if held on indoor premises) and 100% (if held on outdoor premises) of the number of persons that may normally be accommodated at the place of worship (as opposed to 30% (where not all participants meet the conditions as specified by SFH) under item 17 of Part 1 of Schedule 1 to Cap. 599G); and

- (d) group gathering of not more than 30 persons during a tour organized by a licensed travel agent under the Travel Agents Ordinance (Cap. 218) ("licensee") and registered with the Travel Industry Council of Hong Kong, and in which each of the persons who participates as staff member of the tour (e.g. working staff accompanying and receiving the group tours including tourist guides, tour escorts and drivers of chartered tour coaches etc.) is a qualified person, except when taking place at any premises in relation to which a direction under Cap. 599F is in place.

4. L.N. 53 also amends Cap. 599G to:

- (a) confer powers on a person who organizes a group gathering that is, or is intended to be, a vaccine bubble gathering to, e.g., require a participant and an intended participant in the gathering (in the case of an exempted qualified persons' gathering) and a person who participates, or intends to participate, in the gathering as staff member (in the case of an exempted tour gathering) to provide any record, document or information proving that the participant or person concerned is a qualified person and to inspect and examine such documents, information or records, before or during the gathering;
- (b) provide for defences for persons who are charged with an offence under section 6(1) of Cap. 599G for, e.g. participating in or organizing a prohibited group gathering that would have been a vaccine bubble gathering if all or certain persons participating in the gathering were qualified persons; and
- (c) provide that a person commits an offence and is liable on conviction to a fine at level 3 (\$10,000) if the person, in purported compliance with a requirement made by the authorized officer (i.e. a public officer appointed by the Director of Health for the purposes of any provisions of Cap. 599G) in the performance of a function under Cap. 599G, knowingly or recklessly provides any record, document or information that is false or misleading in a material particular to the authorized officer.

Gazettal, commencement and tabling of L.N. 52 and L.N. 53 of 2021

5. L.N. 52 and L.N. 53 of 2021 were published in the Gazette on 27 April 2021 and came into operation on 29 April 2021. They were tabled

before the Legislative Council ("LegCo") at its meeting on 28 April 2021 and are subject to negative vetting by LegCo.

### **The Subcommittee**

6. At its meeting on 30 April 2021, the House Committee agreed to refer L.N. 52 and L.N. 53 of 2021 to the Subcommittee for study.

7. The expiry of the scrutiny period of L.N. 52 and L.N. 53 of 2021 has been extended from the Council meeting of 26 May 2021 to the Council meeting of 16 June 2021 by a resolution passed at the Council meeting of 12 May 2021.

8. Under the chairmanship of Dr CHIANG Lai-wan, the Subcommittee has held one meeting with the Administration to discuss L.N. 52 and L.N. 53 of 2021.

### **Deliberations of the Subcommittee**

#### Enforcement of Cap. 599F

##### *Catering businesses with Type C or D mode of operation*

9. Currently all catering businesses (except bars or pubs and the parts of a catering premises that are mainly used for the sale or supply of intoxicating liquors as defined in section 53(1) of the Dutiable Commodities Ordinance (Cap. 109) for consumption in those premises/parts, as well as those catering businesses exempted under Cap. 599F) must only operate in one of the operating modes among Types A, B, C and D Mode of Operation.<sup>3</sup> Members note that Types C and D are new modes of operation with longer dine-in service hours allowed vis-à-vis Types A and B.<sup>4</sup> Some members enquire about the number of catering businesses with Type C or D mode of operation ("Type C premises" and "Type D premises") and whether inspections have been conducted on the implementation of such modes of operation. There is also a suggestion that a list of catering businesses adopting these two types of mode of operation should be uploaded onto the internet, so as to facilitate those who need to

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<sup>3</sup> Details of the modes of operation are set out in G.N.(E.) 329 of 2021.

<sup>4</sup> The periods during which dine-in services may be provided for premises with Types A and B Mode of Operation are from 5 am to 5:59 pm and 5 am to 9:59 pm respectively, while those for Types C and D are from 5 am to 11:59 pm and from 5 am to 1:59 am on the subsequent day respectively.

have dinner late in the evening. Noting that staff of Type D premises are required to check customers' vaccination records and the Administration earlier announced that a mobile application would be developed to facilitate the trade, some members ask if the mobile application is ready for use.

10. The Administration has advised that as at 22 May 2021, 453 and 17 catering business premises holding a licence from the Food and Environmental Hygiene Department ("FEHD") and under other bureaux/departments' purview respectively have registered as Type C premises and none registered as Type D premises. Some of these premises might not have registered online yet, and they will be advised to do so by the Administration. Checks are being conducted to ascertain whether Type C premises (and Type D premises when there are such registrations) have operated according to the mode of operation they have registered for. Regarding identification of Type C premises and Type D premises, the operator of a catering premises is required to display a notice at the entrance of its premises specifying, among others, its mode of operation. Advice on, among others, the way of displaying such notice has been given to catering premises during inspections. The Administration will explore the feasibility of members' suggestion of releasing information on Type C premises (and Type D premises when there are such registrations) on its webpage and, may consult operators of the premises concerned as necessary. The mobile application for checking vaccination record has been available for downloading since 29 April 2021 and, as at 23 May 2021, downloading of over 19 000 times has been recorded. Apart from written guides available from 29 April 2021, a tutorial video on the use of the application has also been uploaded on the Government's webpage since 21 May 2021.

*Use of "LeaveHomeSafe" mobile application or leaving written information in lieu*

11. Enquiries have been made on the inspections and enforcement actions conducted on catering business premises and scheduled premises<sup>5</sup>, particularly on how the Administration can verify the accuracy of information provided by the customers and if any customers have been prosecuted for providing false information. In this connection, the Administration is also requested to advise: (a) for how long the premises should keep the information provided by customers; and (b) in respect of a

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<sup>5</sup> Scheduled premises refer to amusement game centre, bathhouse, fitness centre, place of amusement, place of public entertainment, party room, beauty parlour, club-house, club or nightclub, karaoke establishment, mahjong-tin kau premises, massage establishment, sports premises, swimming pool, as well as hotel or guesthouse.

confirmed COVID-19 case which has been reported in a catering business premises or scheduled premises, the success rate of follow-up call(s) made by staff of the Department of Health ("DH") to those who visited the same venue at about the same time and provided information in a written format.

12. According to the Administration, 39 777 and 14 212 inspections have been conducted on catering business premises and scheduled premises respectively between 29 April 2021 and 00:00 am on 20 May 2021. As regards the "LeaveHomeSafe"-related requirement, a total of 46 prosecutions have been initiated against the responsible persons of catering business premises concerned regarding the display of the QR code or use of the mobile application or written information provided by the customer between 18 February 2021 and 00:00 am on 20 May 2021. The written information should be kept for 31 days. Under Cap. 599F as amended by L.N. 52 of 2021, authorized officers could require customers to present identity documents to verify the information provided. For catering business premises or scheduled premises which confirmed cases had visited, users of the "LeaveHomeSafe" mobile application who visited those venues at similar times would receive notifications to undergo testing given the risk of infection. The Contact Tracing Office ("CTO") of DH would also contact the persons who had visited the relevant venues at similar times through other channels, including sending SMS messages to the relevant patrons to remind them about the aforesaid matters according to their written entry records.

13. The Administration has further advised that in view of the massive outbreak that took place at Mr Ming's Chinese Dining in K11 Musea in February this year, all patrons who had visited the restaurant on the day when the confirmed case visited the restaurant, which was around lunch hours on 19 February 2021, were classified as close contacts and were subject to quarantine. In order to contain further outbreak of the cluster, CTO conducted contact tracing in relation to the aforementioned patrons through various channels, including calling the patrons according to their written entry records. Among the patrons who were classified as close contacts and were subject to quarantine, around 10% were located through telephone calls made by CTO according to their written entry record for arrangement for quarantine at the quarantine centres.

#### *Arrangements for clubhouses and bars/pubs*

14. Some members enquire whether the closing time of a certain type of clubhouse ("聯誼會") with mahjong facilities could be extended and whether the current capacity limit of mahjong-tin kau premises (set at 50%) could be relaxed. Some other members suggest that the restrictions on the number of customers at catering business premises should be removed if all

staff and customers thereof have completed the COVID-19 vaccination course (i.e. 14 days after the second vaccine dose).

15. The Administration has explained that mahjong-tin kau premises can only operate until 11:59 pm according to the relevant licensing conditions. It reviews the social distancing measures in place on a regular basis, usually bi-weekly, and would adjust the measures having regard to, inter alia, the epidemic situation and the public health risks involved for the purpose of prevention and control of COVID-19. The aforesaid restrictions will be covered under such reviews.

16. Under the specification and directions issued under Cap. 599F, staff and customers of bars and pubs must have received the first dose of COVID-19 vaccine. Some members consider such mandatory measure unfair and posing huge difficulties for bars and pubs to resume business. Some other members are concerned about unlicensed bars and pubs which often continued their operation after the hours when on-site consumption of food and drinks sold and supplied by the premises is allowed. These members call on the Administration to educate the public on the penalty for patronizing unlicensed bars and pubs.

17. According to the Administration, the mandatory specific measures and mode of operation applicable to bars and pubs for their resumption of business have been put in place with "vaccine bubble" as the basis having regard to the aspirations of the relevant sectors and members of the public while mitigating the transmission risks involved in such resumption of business. FEHD has regular communication channels with licensed bars and pubs to understand their concerns. As regards unlicensed bars and pubs, the Police have been taking enforcement operations against them.

*Fresh air supply to catering business premises*

18. Some members enquire about the number of restaurants which have already installed ventilation facilities for meeting the requirement on air change imposed by the directions issued under Cap. 599F and whether any Government subsidy would be provided to restaurants for installing such facilities.

19. The Administration has advised that as at 23 May 2021, 9 904 restaurants have already achieved 6 air changes per hour or installed air purifiers. 4 899 restaurants have applied for an extension of time and will meet the requirement in due course. Among the remaining 3 000 plus restaurants, some might be suspending business due to the pandemic and the Government is ascertaining the status of other cases. Under the



Anti-epidemic Fund, subsidy has been provided to restaurants and could be used for installing air purifiers.

*Directions in relation to production of record, document or information*

20. The Legal Adviser to the Subcommittee ("Legal Adviser") has queried whether any directions applicable to any person who enters or is present on any catering business premises and/or scheduled premises (see the new sections 7AA(1) and 9AA(1) of Cap. 599F) in relation to the production of record, document or information (e.g. the medical certificate as required under G.Ns. (E.) 249 and 250 of 2021 published in the Gazette on 28 April 2021 issued under sections 6(1) and 8(1) of Cap. 599F) could satisfy the four-step proportionality test as laid down in the case of *Hysan Development Co. Ltd. v Town Planning Board* (2016) 19 HKCFAR 372<sup>6</sup> in relation to a person's right of privacy guaranteed by Article 39 of the Basic Law and Article 14 of the Bill of Rights ("BOR 14") under the Hong Kong Bill of Rights Ordinance (Cap. 383).

21. The Administration has explained that any interference in relation to a direction issued by SFH with a person's rights under BOR 14 is a reasonable, rational and necessary measure to combat public health emergency situation and to protect public health, which is a legitimate aim and has satisfied the proportionality test. Pursuant to sections 6(1) and 8(1) of Cap. 599F, SFH may only issue a direction for the purposes of preventing, protecting against, delaying or otherwise controlling the incidence or transmission of the specified disease. The direction to be issued by SFH is for a specified period not exceeding 14 days and imposes requirements or restrictions in relation to the matters stipulated in sections 6 and 8 respectively. The directions requiring production of a medical certificate relating to the health condition of a person (a staff member for the most part) who has not yet been vaccinated and who enters, or is present on, certain types of catering business premises and/or scheduled premises which are allowed to operate with relaxed restrictions during the current epidemic situation in Hong Kong is for achieving the above legitimate purpose. Pursuant to sections 7AA(3) and 9AA(3), a person who, in purported compliance with a direction, provides any record,

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<sup>6</sup> The four-step proportionality test consists of the analysis as to (a) whether the restriction or limitation pursues a legitimate aim; (b) whether the restriction or limitation is rationally connected to that legitimate aim; (c) whether the restriction or limitation is no more than is necessary to accomplish that legitimate aim; and (d) where an encroaching measure has passed the above three steps, whether a reasonable balance has been struck between the societal benefits of the encroachment and the inroads made into the constitutionally protected rights of the individual, in particular whether pursuit of the societal interest results in an unacceptably harsh burden on the individual.

document or information that is false or misleading in a material particular is to be regarded as not having complied with the direction. Pursuant to sections 7AA(2) and 9AA(2), a person who contravenes sections 7AA(1) or 9AA(1) commits an offence and is liable on conviction to a fine at level 3 (\$10,000). Pursuant to section 13A of Cap. 599F, it is a defence for a person charged with an offence under sections 7AA(2) or 9AA(2) to establish that, at the time of the alleged offence, the person had lawful authority or reasonable excuse for contravening the relevant provisions or had taken all reasonable steps to comply with the direction. A person is taken to have established a matter that needs to be established for a defence if there is sufficient evidence to raise an issue with respect to that matter and the contrary is not proved by the prosecution beyond reasonable doubt.

22. Given the limited scope and effective period of the direction which may be issued by SFH and the purposes to be achieved by it, the Administration considers that a reasonable balance has been struck between the societal benefits of protection of public health and the interference with a person's right under BOR 14 and that it does not result in an unacceptably harsh burden on the person.

#### Enforcement of Cap. 599G

##### *Capacity of outdoor premises*

23. Regarding an exempted group gathering during a religious activity referred to in paragraph 3(c) above, some members enquire how the Administration determines the capacity of outdoor premises for such group gathering given that there may not be any indication of capacity of outdoor premises. The Administration is also requested to consider if the capacity limit of spectator stands at sports premises, which is currently capped at 75%, could be relaxed.

24. The Administration has explained that the capacity limit of an outdoor premises for holding an exempted group gathering during a religious activity is determined on the basis of the number of persons that may normally be accommodated on the premises. Such basis was jointly drawn up with the Home Affairs Bureau in consultation with relevant religious bodies in 2020 when the exemption was first introduced. The aforementioned capacity limit would be covered in the regular review of social distancing measures mentioned in paragraph 15.

##### *Group tours*

25. Regarding an exempted tour gathering referred to in paragraph 3(d) above, the Administration is requested to relax the restriction on the

number of participants by increasing the limit from 30 to 50 persons. Some members ask whether a staff member of the relevant tour gathering includes a member of the mutual aid committee ("MAC") which has commissioned the relevant licensee to organize the tour, whether there could be more than one licensee for a tour and who are responsible for the relevant enforcement work.

26. The Administration has advised that, as with other restrictions and requirements imposed as part of the Administration's social distancing measures, the maximum number of participants in exempted tour gatherings would be covered in the regular review mentioned in paragraph 15. The Administration has also pointed out that "staff member"<sup>7</sup> refers to a licensee who organizes the tour; an employee of the licensee; an agent or contractor of the licensee; or an employee of the agent or contractor. As such, a member of the MAC concerned would normally not be considered a staff member of the relevant tour. Based on previous discussions with the Tourism Commission, there is usually only one licensee for a tour. In the case of more than one licensee for a tour, all the employees of these licensees who participate in the tour in such capacity are staff members of the tour concerned. Apart from the Administration, the Travel Industry Council of Hong Kong, which will be responsible for ensuring compliance with social distancing or infection control measures and vaccination/testing requirements by travel agents under the registration arrangement for organizing group tours, plays an important role in enforcing the relevant requirements.

*Powers of police officer in respect of qualified persons' gathering*

27. According to the new sections 5C(2) and 5D(2) of Cap. 599G, the organizer<sup>8</sup> of a qualified persons' gathering<sup>9</sup> or the tour organizer<sup>10</sup> of a tour gathering<sup>11</sup> may require a specified participant<sup>12</sup> or a staff member

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<sup>7</sup> The definition of "staff member" is provided in the new section 1 of Part 2 of Schedule 1 to Cap. 599G (see section 16 of L.N. 53 of 2021).

<sup>8</sup> The definition of "organizer" is provided in the new section 5A of Cap. 599G (see section 7 of L.N. 53 of 2021).

<sup>9</sup> The definition of "qualified persons' gathering" is provided in the new section 5A of Cap. 599G (see section 7 of L.N. 53 of 2021).

<sup>10</sup> The definition of "tour organizer" is provided in the new section 5A of Cap. 599G (see section 7 of L.N. 53 of 2021).

<sup>11</sup> The definition of "tour gathering" is provided in the new section 5A of Cap. 599G (see section 7 of L.N. 53 of 2021).

<sup>12</sup> The definition of "specified participant" is provided in the new section 5A of Cap. 599G (see section 7 of L.N. 53 of 2021).

participant<sup>13</sup> respectively not to participate or to cease to participate in the gathering if such participant is not a qualified person or fails to, e.g. produce documentary proof that he/she is a qualified person. Sections 5C(3) and 5D(3) then provide that if the said participant fails to comply with the requirement made by the organizer(s) not to participate or to cease to participate in the gathering under sections 5C(2) and 5D(2), a police officer may use any force that is reasonably necessary for securing the participant's compliance with the requirement. The Legal Adviser has asked the Administration to clarify the circumstances under which a police officer may use reasonable force under the new sections 5C(3) and 5D(3).

28. The Administration has provided an example that if a person wishes to participate in a qualified persons' gathering but refuses to provide any record, document or information to prove that he/she is a qualified person; and that person also refuses to comply with the organizer's repeated requests to not to participate in the gathering, then police officer(s) may, having regard to actual circumstances at the time, use such force as is necessary, reasonable and appropriate in the circumstances to remove that person from the gathering, with a view to ensuring that each of the persons participating in the gathering is a qualified person. According to the Administration, the Police have strict and prudent guidelines on the use of force. When handling reported incidents/cases, police officers will take action as appropriate in accordance with provisions of the relevant legislation and established procedures, while taking into consideration all relevant facts and circumstances.

*Defence under the new sections 7(1B) and 7(1C) of Cap. 599G*

29. Sections 7(1B) and 7(1C) of Cap. 599G provide for defences for persons who are charged with an offence under section 6(1) of Cap. 599G for being involved in a prohibited group gathering that would have been a vaccine bubble gathering if all or certain persons participating in the gathering ("relevant persons") were qualified persons. To rely on the defences, the new sections 7(1B)(b)(ii) and 7(1C)(b)(ii) of Cap. 599G require a person who (a) organizes the gathering; or (b) owns, controls or operates the place or premises at which the gathering takes place and knowingly allows the taking place of the gathering, and is charged with an offence in respect of such a gathering, to establish that the person had taken all reasonable steps to ensure that each of the relevant persons was a qualified person. The Legal Adviser enquires what would constitute "reasonable steps" for the purposes of sections 7(1B)(b)(ii) and 7(1C)(b)(ii).

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<sup>13</sup> The definition of "staff member participant" is provided in the new section 5A of Cap. 599G (see section 7 of L.N. 53 of 2021).

30. The Administration has advised that the conditions in respect of qualified persons are specified by the SFH in G.N. (E.) 252 of 2021 issued under the new section 5B of Cap. 599G. Having regard to the aforesaid conditions, examples of actions to be taken by, e.g. a person organizing an exempted qualified persons' gathering/exempted tour gathering that would constitute "reasonable steps" include (a) ensuring that all participants aged 6 and above but below 16 have obtained a negative test result for a polymerase chain reaction-based nucleic acid test for COVID-19 conducted within (i) 14 days (for participants of exempted qualified persons' gatherings) or (ii) seven days (for staff member participants of exempted tour gatherings), preceding the day on which the gathering commences ("relevant test result") by asking for and checking relevant records, documents or information (for an organizer of an exempted qualified persons' gathering only); (b) ensuring that all participants aged 16 or above/all staff member participants have received the first dose of a COVID-19 vaccine by asking for and checking relevant records, documents or information; and (c) where any of the participants aged 16 or above/any of the staff member participants cannot, on medical ground, be administered with a COVID-19 vaccine, ensuring all such participants have declared that fact in the specified form with the relevant medical certificate and have obtained the relevant test result by asking for and checking relevant records, documents or information.

*Outdoor gatherings of foreign domestic helpers on weekends and general holidays*

31. Concerns have been raised on outdoor gatherings of more than four foreign domestic helpers ("FDH") on weekends and general holidays, which violate Cap. 599G and pose potential risks of spreading COVID-19. The Administration is requested to take enforcement actions against such gatherings proactively.

32. The Administration has explained that joint operations among government departments have been carried out against such gatherings of FDH. A list of the locations where a large number of such FDH gatherings usually take place have been prepared for enforcement purposes. Members are welcome to propose locations for inclusion in the list.

Border control measures

*Return2hk Scheme*

33. Several members criticized the Administration for the incident relating to classification of a medium risk place and the arrangement under the Return2hk Scheme ("the Scheme") arising from a confirmed case of

COVID-19 in Liwan District of Guangzhou.<sup>14</sup> They consider that the announcements on the classification and on revised classification a few hours later on the same day have created a lot of confusions. They enquire if there is any mechanism for reviewing the classification of medium risk and high risk places and which bureau/department is responsible for determining the level of risk of places. They call on the Administration to improve its internal communications and liaison with the Mainland authorities in relation to the classification of places and arrangement under the Scheme.

34. The Administration lamented the confusion of information given to the public. The Scheme was led by the Constitutional and Mainland Affairs Bureau, and the Administration will consider a basket of factors in deciding whether or not to adjust the implementation details of the Scheme. The Administration will continue to strengthen the liaison with the Mainland authorities to ensure a clear delivery of information.

#### *Feasibility of re-opening border between Hong Kong and the Mainland*

35. Considering that the number of COVID-19 cases might not reduce to zero in the short term, some members enquire if the Administration will resume border traffic with the Mainland when the risk of spreading COVID-19 in the community is low and controllable. They also suggest that people who have completed vaccination course should be given priority to cross the border. The Administration has advised that it will step up efforts in communicating with the Mainland regarding the subject matter.

#### *Hong Kong-Singapore Air Travel Bubble*

36. Some members enquire under what conditions the Administration will resume discussion with the Singaporean Government regarding the Hong Kong-Singapore Air Travel Bubble arrangement. The Administration has advised that the Commerce and Economic Development Bureau will resume the relevant discussion once the epidemic situation in Singapore subsides.

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<sup>14</sup> Having been notified of the confirmed case and that an area in Liwan District had been classified as medium risk by the Mainland, the Administration announced on 22 May 2021 that following the prevailing mechanism, Guangdong Province would be classified as a medium risk place and Hong Kong residents who have stayed in Guangdong would not be eligible under the Scheme. However, a few hours later on the same day, the Administration clarified that only the Mainland-specified Jinlong Huixin Building, Longjin Street, Liwan District of Guangzhou has been classified as a medium risk place, and the rest of Guangdong Province was not, and was not affected by the classification for the Scheme.

## Vaccination

### *Boosting vaccination rate*

37. Noting that the vaccination rate among the staff of Hospital Authority and DH was only around 30%, some members urge the Administration to boost the vaccination rate among civil servants and healthcare staff and stress that they should take the lead in receiving vaccination. For boosting the vaccination rate both incentive measures (e.g. offering one-day paid leave for vaccination or leaving a positive remark on appraisal reports of those who have received vaccination) and punitive measures (e.g. vaccination on a user pay basis after the end of the free vaccination programme) should be taken. They also ask the Administration to step up its efforts to encourage the public to receive vaccination. In this connection, they ask if children aged below 12 can receive vaccination. They also suggest inviting medical experts to explain more on the adverse effects that may arise from vaccination and providing outreach vaccination service in places with many restaurants.

38. The Administration has pointed out that it will strive to achieve a higher vaccination rate in various ways. For example, the "vaccine bubble" concept introduced under the new direction in fighting the pandemic would help incentivise vaccination. It will continue to explore and consider different means to boost vaccination rate, including the aforesaid suggestions. As for the feasibility of vaccination for children below 12, the BioNTech vaccine has been approved to be administered to younger age groups in the United States of America. The Administration will obtain relevant data and consider recommending the use of vaccine on younger age groups if the safety and efficacy of the vaccine meet the relevant standards in Hong Kong.

### Compulsory quarantine

39. Some members ask whether a medical certificate (commonly known as "病假紙") could be issued by DH to people who are under compulsory quarantine, so that they could be entitled to paid sick leave (the daily rate of the relevant sickness allowance is a sum equivalent to four-fifths of the average daily wages earned by an employee). The Administration is also requested to consider, as an alternative to paid sick leave, providing these people with an allowance of \$500 per day (four-fifths of the average daily wages earned by an employee calculated on the basis of the median monthly wage).

40. The Administration has explained that when the relevant persons leave the quarantine centres upon the end of their quarantine period, DH

would issue a document which sets out the quarantine period and whether the person was infected by COVID-19 as proof that they have stayed at the quarantine centres. Medical certificates will also be issued upon request by the relevant persons and after assessment by the medical team of the quarantine centres.

### **Recommendation**

41. The Subcommittee raises no objection to L.N. 52 and L.N. 53 of 2021 and will not propose any amendment to them.

### **Advice sought**

42. Members are invited to note the deliberations of the Subcommittee.

Council Business Division 4  
Legislative Council Secretariat  
3 June 2021