

立法會
Legislative Council

LC Paper No. LS85/20-21

**Paper for the House Committee Meeting
on 25 June 2021**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 22 June 2021**

Tabling in LegCo : Council meeting of 23 June 2021

Amendment to be made by : Council meeting of 21 July 2021 (or that of 18 August 2021 if extended by resolution)

Prevention and Control of Disease (Requirements and Directions) (Business and Premises) (Amendment) (No. 3) Regulation 2021 (L.N. 102)

Prevention and Control of Disease (Prohibition on Group Gathering) (Amendment) (No. 4) Regulation 2021 (L.N. 103)

L.N. 102 and L.N. 103 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 emergency relating to COVID-19.

L.N. 102

2. L.N. 102 amends the Prevention and Control of Disease (Requirements and Directions) (Business and Premises) Regulation (Cap. 599F) to add "cruise ship"¹ to Part 1 of Schedule 2 to Cap. 599F as a scheduled premise regulated by Cap. 599F. The effect is that certain requirements and directions may be imposed by Secretary for Food and Health ("Secretary") concerning the operation of such premises.

L.N. 103

3. L.N. 103 amends the Prevention and Control of Disease (Prohibition on Group Gathering) Regulation (Cap. 599G) mainly to:

¹ Under L.N. 102, cruise ship means a vessel: (a) carrying passengers exclusively for sightseeing or pleasure purposes; (b) plying, along a predetermined route, on any voyage part of which is outside the waters of Hong Kong; and (c) the boarding of which involves passage through immigration control.

- (a) provide that the Secretary may specify conditions under section 5B of Cap. 599G for classifying a person as a qualified person² by reference to whether a certain proportion of persons participating in the group gathering concerned has met any other specified conditions;
- (b) relax the restrictions of certain exempted group gatherings as follows:
 - (i) a wedding ceremony or a specified business meeting at which no food or drink is served (except as part of a religious ritual for a wedding ceremony) could be participated by no more than 50% (if not all the participants are qualified persons) and 100% (if each of the participants is a qualified person) of the number of persons that may normally be accommodated on the premises as a place for wedding ceremony or meeting; and
 - (ii) a religious activity (other than a wedding ceremony) that satisfies specified conditions (e.g. no food or drink is served except as part of a religious ritual) could be participated by not more than 50% (if not all the participants are qualified persons) and 100% (if each of the participants is a qualified person) of the number of persons that may normally be accommodated on the premises as a place of worship; and
- (c) provide for an additional exempted group gathering for a tour of not more than 100 persons organized by a licensed travel agent under the Travel Agents Ordinance (Cap. 218) and registered with the Travel Industry Council of Hong Kong, in which each of the participants of the tour is a qualified person except when taking place at any premises in relation to which a direction under Cap. 599F is in place.

Consultation

4. According to paragraph 21 of the Legislative Council Brief (with no file reference) issued by the Food and Health Bureau in June 2021, the Administration is of the view that given the exigency of the situation, public consultation was not feasible.

5. As advised by the Clerk to the Panel on Health Services, the Panel has not been consulted on L.N. 102 and L.N. 103.

Commencement

6. L.N. 102 and L.N. 103 come into operation on 24 June 2021.

² A qualified person for the purpose of Cap. 599G means a person who meets certain conditions specified by the Secretary by notice published in the Gazette under section 5B(1) of Cap. 599G.

Concluding remarks

7. No difficulties relating to the legal and drafting aspects of L.N. 102 and L.N. 103 have been identified.

Other matters

Government notice made by the Secretary under Cap. 599F

Latest requirements and directions in relation to catering business

8. By G.N. (E.) 376 of 2021 published in the Gazette on 23 June 2021, the Secretary has specified and directed that, during the period of 14 days beginning on 24 June to 7 July 2021, all catering business (except bars or pubs and the parts of a catering premises selling or supplying intoxicating liquors which are subject to other requirements and those exempted under Cap. 599F) must operate according to one of the operating mode(s) specified in G.N. (E.) 376 of 2021, namely, Type A, B, C or D mode of operation. The specific measures required for Types A and B modes of operation are the same as those adopted before 24 June 2021. As regards Types C and D, the specific measures are the same as those adopted before 24 June 2021 with the following modifications:

- (a) Type C Mode of Operation: the number of customers at the catering premises at any one time must not exceed 75% of the seating capacity of the premises.
- (b) Type D Mode of Operation:
 - (i) in respect of customers to be seated at a table, at least two-thirds of them have received the first dose of COVID-19 vaccine;
 - (ii) the number of customers at the catering premises at any one time must not exceed 100% of the seating capacity of the premises;
 - (iii) no more than 12 persons can be seated together at one table in "Designated Zone D"; and
 - (iv) the number of persons participating in any one banquet at any one time may not exceed 180 persons.

Latest requirements and directions in relation to scheduled premises

9. By G.N. (E.) 377 of 2021 published in the Gazette on 23 June 2021, the Secretary has directed that, for a period of 14 days from 24 June to 7 July 2021 ("specified period"):

- (a) 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.) 377 of 2021; and

- (b) 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 may operate in one of the modes of operation specified in G.N. (E.) 377 of 2021, namely, Type 1 or 2 Mode of Operation (except bathhouse which may only operate in Type 1 Mode of Operation specified below). The main measures required for Types 1 and 2 Modes of Operation are set out below:

Type 1 Mode of Operation

- (i) all staff members have received the first dose of COVID-19 vaccine and keep the vaccination record as proof of vaccination;
- (ii) the customer has received the first dose of COVID-19 vaccine (except for mahjong-tin kau premises);
- (iii) the number of customers at the scheduled premises at any one time must not exceed 75% of the normal seating capacity of the premises; and
- (iv) premises must be closed from 2:00 a.m. to 8:59 a.m. (except for mahjong-tin kau premises which must be closed from midnight to 11:59 a.m. on the subsequent day).

Type 2 Mode of Operation

- (i) all staff members have completed the COVID-19 vaccination course and keep the vaccination record as proof of vaccination;
- (ii) the customer has received the first dose of COVID-19 vaccine;
- (iii) the number of customers at the scheduled premises at any one time must not exceed 100% of the normal seating capacity of the premises; and
- (iv) premises must be closed from 4:00 a.m. to 4:59 a.m. (except for mahjong-tin kau premises which must be closed from midnight to 11:59 a.m. on the subsequent day); and

- (c) One type of scheduled premises (i.e. cruise ship) as set out in Part 1 of Schedule 2 to Cap. 599F must not provide passenger services during the specified period.

Government notices made by the Secretary under Cap. 599G

10. In respect of the prohibition on group gathering, the Secretary has, pursuant to section 4(1) of Cap. 599G, specified by G.N. (E.) 378 of 2021 published in the Gazette on 23 June 2021 the 14-day period from 24 June to 7 July 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.

11. By G.N. (E.) 380 of 2021 published in the Gazette on 23 June 2021, the Secretary has specified the conditions for "qualified persons" for the purposes of Part 3 of Cap. 599G. Such conditions include at least two-thirds of the participants of the group gathering (for exempted group gathering during wedding ceremony, specified business meeting, religious activity or a tour gathering of not more than 100 persons) have received the first dose of a COVID-19 vaccine; and all staff member participants during the tour gathering of not more than 30 persons or of not more than 100 persons have received the first dose of COVID-19 vaccine prior to participating in the tour gathering etc. G.N. (E.) 252 of 2021 has been suspended upon the commencement of G.N. (E.) 380 of 2021 on 24 June 2021.

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

12. By G.N. (E.) 381 of 2021 published in the Gazette on 23 June 2021, the Secretary has specified five groups of specified places³ to which Cap. 599H is applicable. Upon the commencement of G.N. (E.) 381 of 2021 on 25 June 2021, G.N. (E.) 366 of 2021 will be suspended.

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

13. In respect of the requirement to wear masks, the Secretary has, pursuant to section 3(1) of Cap. 599I, specified by G.N. (E.) 379 of 2021 published in the Gazette on 23 June 2021 the 14-day period from 24 June to 7 July 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

³ Group A1 specified places: Brazil, India, Indonesia, Nepal, Pakistan, the Philippines and South Africa; Group A2 specified places: Ireland; Group B specified places: Argentina, Bangladesh, Belgium, Cambodia, Canada, Colombia, Ecuador, Egypt, Ethiopia, France, Germany, Italy, Japan, Kazakhstan, Kenya, Korea, Malaysia, the Netherlands, Romania, Russia, Singapore, Switzerland, Thailand, Turkey, Ukraine, United Arab Emirates, United Kingdom, United States of America and Vietnam; Group C specified places: all countries except China and those specified as Group A1 specified places, Group A2 specified places, Group B specified places and Group D specified places; and Group D specified places: Australia and New Zealand.

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).

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

14. By G.N. (E.)s 382 and 383 of 2021 published in the Gazette on 23 June 2021, the Secretary has specified certain categories of persons who (i) were present in any capacity (e.g. residents, visitors and workers) at certain specified premises during certain specified periods, 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, to be persons who must undergo a specified test within the periods as specified in the relevant Government notices.

15. 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.

Prepared by

Mark LAM
Assistant Legal Adviser
Legislative Council Secretariat
24 June 2021