

**立法會**  
**Legislative Council**

LC Paper No. LS101/20-21

**Paper for the House Committee Meeting  
on 23 July 2021**

**Legal Service Division Report on  
Subsidiary Legislation Gazetted on 20 July 2021**

**Tabling in LegCo** : Council meeting of 21 July 2021

**Amendment to be made by** : Council meeting of 18 August 2021 (or that of 8 September 2021 if extended by resolution)

**Prevention and Control of Disease (Requirements and Directions) (Business and Premises) (Amendment) (No. 4) Regulation 2021** (L.N. 126)

**Prevention and Control of Disease (Prohibition on Group Gathering) (Amendment) (No. 5) Regulation 2021** (L.N. 127)

L.N. 126 and L.N. 127 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. 126

2. L.N. 126 amends the Prevention and Control of Disease (Requirements and Directions) (Business and Premises) Regulation (Cap. 599F) mainly to:

- (a) add to Part 1 of Schedule 2 to Cap. 599F a new type of scheduled premises, namely "event premises", being premises (other than private premises or a place of public entertainment) that are used with the consent of the owner, manager or tenant for holding a specified event<sup>1</sup> at which only certain specified persons (e.g. the person who

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<sup>1</sup> Including a meeting, forum, symposium, exhibition, ceremonial event and celebratory event, but excluding any event that is an exempted group gathering as defined by section 2 of the Prevention and Control of Disease (Prohibition on Group Gathering) Regulation (Cap. 599G).

organizes the event ("organizer"), persons who provide services for the event ("service providers") and invited guests) are present;

- (b) require the organizer of a specified event held on event premises: (i) to adopt access control measures to check the persons intending to enter the event premises for their authority or eligibility for being present at the event; and (ii) to comply with any directions issued by the Secretary for Food and Health ("Secretary") under section 8(1) of Cap. 599F. Pursuant to section 9(2) of Cap. 599F as amended, an organizer who fails to comply with the directions issued by the Secretary commits an offence and is liable on conviction to a fine at level 5 (\$50,000) and imprisonment for six months; and
- (c) empower the organizer: (i) to require persons who enter or are present on the event premises to provide records, documents or information that is necessary for compliance with the directions; and (ii) to inspect and examine such records, documents or information. Pursuant to section 9AA of Cap. 599F, a person who, in purported compliance with a direction issued under section 8(1) of Cap. 599F, provides any record, document or information that is false or misleading in a material particular, commits an offence and is liable on conviction to a fine at level 3 (\$10,000).

### L.N. 127

3. In the light of the amendments made to Cap. 599F by L.N. 126 as reported above, L.N. 127 consequentially amends the Prevention and Control of Disease (Prohibition on Group Gathering) Regulation (Cap. 599G) mainly to remove wedding ceremonies and certain business meetings<sup>2</sup> from the list of exempted group gatherings under Schedule 1 to Cap. 599G to the effect that such ceremonies and meetings will be regulated under Cap. 599F as specified events held on event premises.

### Consultation

4. According to paragraph 16 of the Legislative Council Brief (with no file reference) issued by the Food and Health Bureau in July 2021, the Administration considers that public consultation was not feasible given the exigency of the situation.

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<sup>2</sup> Pursuant to Part 2 of Schedule 1 to Cap. 599G, these include certain meetings of a body or of a listed company that are held in accordance with any Ordinance or other regulatory instrument that governs the operation of the body, the company or its business.

5. As advised by the Clerk to the Panel on Health Services, the Panel has not been consulted on L.N. 126 and L.N. 127.

#### Commencement

6. L.N. 126 and L.N. 127 come into operation on 22 July 2021.

#### Concluding remarks

7. No difficulties relating to the legal and drafting aspects of L.N. 126 and L.N. 127 have been identified.

#### **Other matters**

#### Government notices made by the Secretary under Cap. 599F

##### *Latest requirements and directions in relation to catering business*

8. By G.N. (E.) 448 of 2021 published in the Gazette on 21 July 2021, the Secretary has specified and directed that, during the period of 14 days beginning on 22 July to 4 August 2021 ("specified period"), all catering businesses (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.) 448 of 2021, namely, Type A, B, C or D Mode of Operation. The specific measures required for Types A, B, C and D Modes of Operation are the same as those adopted before 22 July 2021.

##### *Latest requirements and directions in relation to scheduled premises*

9. By G.N. (E.) 449 of 2021 published in the Gazette on 21 July 2021, the Secretary has directed that, for the specified period:

- (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 may operate in one of the modes of operation specified in G.N. (E.) 449 of 2021, namely, Type 1 or 2 Mode of Operation (except bathhouse which may only operate in Type 1 Mode of Operation). The specific measures required for Types 1 and 2 Modes of Operation are the same as those adopted before 22 July 2021; and

- (b) 11 types of scheduled premises<sup>3</sup> 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.) 449 of 2021. In respect of event premises which are newly added as scheduled premises by virtue of L.N. 126, the requirements and restrictions, among others, include:
- (i) the number of persons allowed may reach 100% of the normal capacity of the event premises if all organizer(s) and service providers and at least two-thirds of the attendees have received the first dose of COVID-19 vaccine;
  - (ii) no more than four persons or the number of persons living in the same household, whichever is more, may be allowed in each group of attendees, subject to certain exceptions;
  - (iii) for seating in an auditorium setting or spectator stands, seats to be occupied must not exceed 85% of the seating capacity and no more than six consecutive seats in the same row may be occupied; and
  - (iv) the applicable directions as set out in G.N. (E.) 448 of 2021 (e.g. Types A, B, C and D Modes of Operation referred to in paragraph 8 above) apply to any catering premises on the event premises.

10. By G.N. (E.) 449 of 2021, cruise ships as set out in Part 1 of Schedule 2 to Cap. 599F may provide passenger services from 30 July 2021 in a specified mode of operation upon compliance with the requirements and restrictions detailed in paragraph III(A) to (C) of, and at Annex to, G.N. (E.) 449 of 2021, e.g. all crew members and passengers aged 16 or above have completed a COVID-19 vaccination course; the number of customers at any one time must not exceed 50% of the normal capacity of the cruise ship; and passengers must produce a valid record of a negative specified test result and scan the LeaveHomeSafe ("LHS") venue QR code using the LHS mobile application on their mobile phones<sup>4</sup> before boarding the cruise ship.

#### Government notice made by the Secretary under Cap. 599G

11. In respect of the prohibition on group gathering, the Secretary has,

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<sup>3</sup> Amusement game centre, fitness centre, place of amusement, place of public entertainment, beauty parlour, club-house, massage establishment, sports premises, swimming pool, hotel and guesthouse and event premises.

<sup>4</sup> If passengers aged 15 or below or those aged 65 or above are unable to use the LHS mobile application, they must register their names, contact numbers and the dates and times of their visits with written or electronic records to be kept by the premises operator.

pursuant to section 4(1) of Cap. 599G, specified by G.N. (E.) 450 of 2021 published in the Gazette on 21 July 2021 the specified period 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.

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

12. In respect of the requirement to wear masks, the Secretary has, pursuant to section 3(1) of Cap. 599I, specified by G.N. (E.) 451 of 2021 published in the Gazette on 21 July 2021 the specified period 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).

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

13. By G.N. (E.)s 444 to 447, 452 and 453 of 2021 published in the Gazette on 20 and 21 July 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, (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, and (iii) persons employed by and on duty or provide hired services at residential care homes ("RCHs") for the elderly and for persons with disabilities (including day care service unit attached to such RCHs) and nursing homes during a certain specified period, to be persons who must undergo a specified test within the periods as specified in the relevant Government notices.

14. 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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