

立法會
Legislative Council

LC Paper No. CB(4)1725/20-21

(These minutes have been
seen by the Administration)

Ref : CB2/SS/2/20

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

**Minutes of the third meeting
held on Tuesday, 24 November 2020, at 2:45 pm
in Conference Room 2 of the Legislative Council Complex**

Members present : Dr Hon CHIANG Lai-wan, SBS, JP (Chairman)
Hon YIU Si-wing, BBS
Hon Elizabeth QUAT, BBS, JP
Hon POON Siu-ping, BBS, MH
Hon SHIU Ka-fai, JP
Hon Wilson OR Chong-shing, MH
Dr Hon Pierre CHAN
Hon CHAN Chun-ying, JP
Dr Hon CHENG Chung-tai

Members attending : Hon YUNG Hoi-yan, JP
Hon LAU Kwok-fan, MH

Members absent : Hon Mrs Regina IP LAU Suk-ye, GBS, JP
Hon Frankie YICK Chi-ming, SBS, JP
Hon LUK Chung-hung, JP

Public Officers attending : Item I

Dr CHUI Tak-yi, JP
Under Secretary for Food and Health

Ms Maisie HO Mei-chi
Principal Assistant Secretary for Food and Health (Health)5

Food and Health Bureau

Ms Ellen CHAN Sheung-man
Principal Assistant Secretary for Food and Health (Health)7
Food and Health Bureau

Dr Heston KWONG Kwok-wai, JP
Head, Emergency Response and Programme Management
Branch
Department of Health

Mr Peter Sze Chun-fai
Senior Assistant Law Draftsman
Department of Justice

Clerk in attendance : Ms Maisie LAM
Chief Council Secretary (2) 5

Staff in attendance : Mr Alvin CHUI
Assistant Legal Adviser 3

Ms Wendy KAN
Assistant Legal Adviser 6

Mr Ronald LAU
Council Secretary (2) 5

Miss Maggie CHIU
Legislative Assistant (2) 5

Action

I. Meeting with the Administration

[File Ref.: L.N. 141, 143, 145, 147 to 151, 159 to 160, 162, 200 to 201, 203 and 209 of 2020, Legislative Council Briefs issued by the Food and Health Bureau on 17 July 2020 and in October 2020, LC Paper Nos. LS113 to LS115/19-20, LS118 to LS119/19-20, LS122/19-20, LS1/20-21, LS4/20-21, CB(2)174/20-21(01), (03), (05) to (09), (11) to (13), (16) to (17), (19) to (24), CB(2)202/20-21(01) to (03), CB(2)375/20-21(01) to (02)]

The Subcommittee deliberated (index of proceedings attached at **Annex**).

Action

Extension of scrutiny period

2. Members noted that Mrs Regina IP had moved a resolution at the Council meeting of 18 November 2020 to extend the scrutiny period of the Prevention and Control of Disease (Prohibition on Group Gathering) (Amendment) (No. 12) Regulation 2020 (L.N. 209 of 2020) to the Council meeting of 9 December 2020. The deadline for giving notice of amendment, if any, to this item of subsidiary legislation was 2 December 2020.

3. Members further noted that with the gazettal and the tabling in the Legislative Council of the Prevention and Control of Disease (Compulsory Testing for Certain Persons) Regulation (L.N. 221 of 2020) on 14 November and 18 November 2020 respectively, the House Committee had agreed at its meeting on 20 November 2020 to refer this item of subsidiary legislation to the Subcommittee for study. Members agreed that the Chairman would give notice to move a proposed resolution at the Council meeting of 2 December 2020 to extend the scrutiny period of L.N. 221 of 2020 to the Council meeting of 6 January 2021. Members noted that if the scrutiny period was extended, the deadline for giving notice of amendment, if any, to this item of subsidiary legislation would be 29 December 2020.

Follow-up to issues arising from previous meeting

4. Members noted the Administration's response to issues raised at the meeting on 16 November 2020 (LC Paper No. CB(2)375/20-21(02)).

Examination of 13 items of subsidiary legislation relating to social distancing measures

5. The Subcommittee completed the examination of the provisions of the following 13 items of subsidiary legislation:

- (a) Prevention and Control of Disease (Requirements and Directions) (Business and Premises) (Amendment) (No. 4) Regulation 2020 (L.N. 147 of 2020);
- (b) Prevention and Control of Disease (Requirements and Directions) (Business and Premises) (Amendment) (No. 5) Regulation 2020 (L.N. 150 of 2020);
- (c) Prevention and Control of Disease (Requirements and Directions) (Business and Premises) (Amendment) (No. 6) Regulation 2020 (L.N. 200 of 2020);

Action

- (d) Prevention and Control of Disease (Prohibition on Group Gathering) (Amendment) (No. 7) Regulation 2020 (L.N. 141 of 2020);
- (e) Prevention and Control of Disease (Prohibition on Group Gathering) (Amendment) (No. 8) Regulation 2020 (L.N. 148 of 2020);
- (f) Prevention and Control of Disease (Prohibition on Group Gathering) (Amendment) (No. 9) Regulation 2020 (L.N. 151 of 2020);
- (g) Prevention and Control of Disease (Prohibition on Group Gathering) (Amendment) (No. 10) Regulation 2020 (L.N. 162 of 2020);
- (h) Prevention and Control of Disease (Prohibition on Group Gathering) (Amendment) (No. 11) Regulation 2020 (L.N. 201 of 2020);
- (i) Prevention and Control of Disease (Prohibition on Group Gathering) (Amendment) (No. 12) Regulation 2020 (L.N. 209 of 2020);
- (j) Prevention and Control of Disease (Wearing of Mask) (Public Transport) Regulation (L.N. 143 of 2020);
- (k) Prevention and Control of Disease (Wearing of Mask) (Public Transport) (Amendment) Regulation 2020 (L.N. 149 of 2020);
- (l) Prevention and Control of Disease (Wearing of Mask) (Amendment) Regulation 2020 (L.N. 160. of 2020); and
- (m) Prevention and Control of Disease (Wearing of Mask) (Amendment) (No. 2) Regulation 2020 (L.N. 203 of 2020).

Examination of two items of subsidiary legislation relating to disclosure of information measures

6. The Subcommittee completed the examination of the provisions of the following two items of subsidiary legislation:

Action

- (a) Prevention and Control of Disease (Disclosure of Information) (Amendment) (No. 2) Regulation 2020 (L.N. 145 of 2020); and
- (b) Prevention and Control of Disease (Disclosure of Information) (Amendment) (No. 3) Regulation 2020 (L.N. 159 of 2020).

Follow-up action required of the Administration

Admin

7. The Administration was requested to:
- (a) advise the respective manpower deployed by law enforcement agencies to:
 - (i) inspect catering business premises to ensure the compliance with the relevant requirements set out in the directions made by the Secretary for Food and Health under the Prevention and Control of Disease (Requirements and Directions) (Business and Premises) Regulation (Cap. 599F); and
 - (ii) remind foreign domestic helpers of the prohibition of group gathering requirement under the Prevention and Control of Disease (Prohibition on Group Gathering) Regulation (Cap. 599G); and
 - (b) advise the risk of the import of coronavirus disease 2019 virus into Hong Kong through imported frozen commodities and consider conducting random viral tests on frozen commodities and regularizing the free viral testing services for personnel handling such commodities.

Legislative timetable

8. Members noted that subject to any views members might have on the written response to be provided by the Administration on the issues set out in paragraph 7 above, the Subcommittee would complete the scrutiny of the 15 items of subsidiary legislation referred to in paragraphs 5 and 6 above. The Chairman would make a verbal report on the deliberations of the Subcommittee on these 15 items of subsidiary legislation as well as another seven items of subsidiary legislation (i.e. L.N. 142, L.N. 144, L.N. 146, L.N. 158, L.N. 198, L.N. 199 and L.N. 202 of 2020), the examination of the provisions of which was completed at the previous meeting, to the House Committee on 27 November 2020. The deadline for giving notice of amendments, if any, to L.N. 209 of 2020 would be 2 December 2020.

Action

(Post-meeting note: The Administration's response to the issues set out in paragraph 7 above was issued to members vide LC Paper No. CB(2)411/20-21(02) on 27 November 2020. Since no views from members have been received on the response by the specified deadline, the Subcommittee completed the scrutiny of the 15 items of subsidiary legislation referred to in paragraphs 5 and 6 above.)

II. Any other business

9. There being no other business, the meeting ended at 4:37 pm.

Council Business Division 4
Legislative Council Secretariat
12 November 2021

**Proceedings of the third meeting of the
Subcommittee on Subsidiary Legislation
Relating to the Prevention and Control of Disease
on Tuesday, 24 November 2020, at 2:45 pm
in Conference Room 2 of the Legislative Council Complex**

Time marker	Speaker	Subject(s)/Discussion	Action required
<i>Agenda item I: Meeting with the Administration</i>			
000559 - 001011	Chairman	Opening remarks	
001012 - 001456	Chairman Admin	Briefing by the Administration on its response to issues raised at the meeting on 16 November 2020 [LC Paper No. CB(2)375/20-21(02)] In response to the Chairman's enquiry, the Administration advised that some of the persons arriving in Hong Kong who were exempted from compulsory quarantine arrangements were not included in the statistics on daily passenger traffic as provided by the Immigration Department on its website.	
001457 - 001933	Chairman Mr YIU Si-wing Admin	Mr YIU Si-wing enquired whether the Administration would consider arranging persons subject to quarantine to undergo the compulsory quarantine in designated hotels as a means to strengthen infection prevention and control. He also urged the Administration to issue clear guidelines to hotels on the requirements to be complied by minors under 18 years old who were subject to compulsory quarantine in hotels, including the requirement that if a minor required the company of a carer while under quarantine, the carer had to remain in the same hotel until the end of the quarantine period. The Administration advised that it would continue to review and discuss with the hotel industry from time to time the possibility of designating hotels for quarantine purpose and make suitable adjustments as and when necessary.	
001934 - 002213	Chairman Mr POON Siu-ping Admin	Mr POON Siu-ping enquired if the social distancing measures imposed on hotels for prevention and control of infection were legally binding and the timetable for issuing new guidelines in this regard. The Administration advised that the legal framework to regulate hotels and guesthouses under the Prevention and Control of Disease (Requirements and Directions) (Business and Premises) Regulation (Cap. 599F) and group gathering therein under the Prevention and Control of Disease (Prohibition on Group Gathering) Regulation (Cap. 599G) had been mapped out, while the directions to put in place the restrictions and requirements would be issued in due course.	
002214 - 002922	Chairman Mr SHIU Ka-fai Admin Ms Elizabeth QUAT	On Mr SHIU Ka-fai's concern that the past arrangement that visitors were allowed to visit persons under compulsory quarantine in hotels would pose a threat to the community, the Administration advised that guidelines had been issued to restrict such visiting arrangement. Mr SHIU Ka-fai further urged the Administration to expedite the arrangement for persons subject to quarantine to undergo their compulsory	

Time marker	Speaker	Subject(s)/Discussion	Action required
		<p>quarantine in designated hotels. Sharing a similar concern, Ms Elizabeth QUAT called on the Administration to arrange point-to-point transportation for the persons under compulsory quarantine, strengthen the virus testing arrangement and extend the 14-day quarantine period in view of the large number of students studying abroad returning to Hong Kong during Christmas holiday.</p> <p>The Administration advised that the arrangement of designated hotels for quarantine would be subject to communication with the hotel industry. It was exploring the possibility of arranging point-to-point transportation for persons who were subject to compulsory quarantine. Meanwhile, it had issued strict guidelines to tighten the requirements on all inbound travellers which included, among others, requiring them to provide before boarding confirmation of room reservation in a hotel in Hong Kong for not less than 14 days upon arrival in Hong Kong, undergo testing upon their arrival in Hong Kong in accordance with the "test-and-hold" arrangement to wait for their test results at the Hong Kong International Airport ("HKIA"). The Administration would examine whether the current quarantine period of 14 days should be extended.</p>	
002923 - 003436	Chairman Mr YIU Si-wing Admin	Mr YIU Si-wing enquired how the Administration would deliver a clear message on the requirements to be complied with to carers who would accompany children under 18 years old arriving in Hong Kong from their arrival at HKIA to hotel check-in. The Administration advised that health advice was given to carers who would accompany the children during the latter's quarantine period, and these persons had to sign an undertaking that they would remain in the same hotel room until the end of the quarantine period. Expressing concern that the tightened requirement could not prevent family members and friends of the persons under quarantine from having face-to-face contact with them at the Arrivals Hall of HKIA, Mr YIU Si-wing urged the Administration to issue guidelines to clarify under what circumstances the carers would be subject to the same quarantine arrangement as the persons under quarantine.	
003437 - 003633	Chairman Admin	Commencement of the discussion on 13 items of subsidiary legislation relating to social distancing measures	
003634 - 004140	Chairman Mr CHAN Chun-ying Admin	<p>Mr CHAN Chun-ying enquired the respective manpower deployed and inspections carried out by law enforcement agencies to: (a) inspect catering business premises to ensure compliance with the relevant requirements set out in the directions issued by the Secretary for Food and Health under Cap. 599F; and (b) remind foreign domestic helpers of the prohibition of group gathering requirement under Cap. 599G.</p> <p>The Administration advised that since the coming into operation of Cap. 599F, the law enforcement agencies had carried out more than 450 000 inspections, given around 5 400 verbal warnings and made 946 prosecutions, involving mostly catering business premises. In the previous week, over 10 000 and 600 inspections of catering business premises and other premises were carried out respectively with 28 violations and</p>	

Time marker	Speaker	Subject(s)/Discussion	Action required
		two prosecutions made. As regards the reminder to foreign domestic helpers, law enforcement officers had reminded them on-site of the social distancing measures to be complied with by making use of signboards and other simple means to facilitate effective communication. Mr CHAN Chun-ying requested the Administration to provide in writing the relevant statistics in respect of the manpower deployed on the above two aspects.	Admin
004141 - 004600	Chairman Mr YIU Si-wing Admin	Mr YIU Si-wing said that the group gathering requirement in respect of local tours in June 2020 when the maximum number of persons allowed in a group gathering was relaxed to 50 under Cap. 599G was not clearly defined. He urged the Administration to grant discretion to those tours not fulfilling the relevant group gathering requirement so that they could be eligible for the Green Lifestyle Local Tour Incentive Scheme. He also called on the Administration to align the number of persons allowed in a group gathering during a local tour with that of the maximum seating capacity of catering business premises allowed. The Administration replied that it would communicate with the Tourism Commission on the arrangement for the affected local tours, and would review the number of persons to be allowed in a group gathering during a local tour having regard to the development of the epidemic situation.	
004601 - 005338	Chairman Ms Elizabeth QUAT Admin	Ms Elizabeth QUAT suspected that there were loopholes in the existing legislation in terms of regulation of dancing activities in various scheduled premises, which led to a cluster outbreak related to dancing activities. She also urged the Administration to regulate gatherings in private premises to strengthen infection prevention and control. The Administration advised that given the diversity of high-risk activities and the fact that they could be carried out on premises of different natures, including premises the main business nature of which did not concern the relevant type of high-risk activity, it had endeavoured to regulate different activities emerging as high-risk according to the legal framework provided under the current legislation and would enhance the legal framework as appropriate if the current legislation was considered inadequate.	
005339 - 005757	Chairman Mr YIU Si-wing Admin	Mr YIU Si-wing urged the Administration to, in respect of the requirement that inbound travellers had to provide before boarding a confirmation of room reservation in a hotel in Hong Kong for not less than 14 days counting from the day of the arrival in Hong Kong, assign personnel at HKIA to assist inbound travellers if the hotels they reserved no longer met the relevant requirements, and arrange transportation for these travellers' journey from HKIA to the hotels that met the new requirements. The Administration took note of the view.	
005758 - 010823	Chairman Mr Wilson OR Admin	Mr Wilson OR sought information on the Administration's plan to impose stricter restrictions on persons under compulsory quarantine at hotels. He urged the Administration to offer appropriate virus testing for children under six years old at	

Time marker	Speaker	Subject(s)/Discussion	Action required
		<p>community testing centres and consider setting up a centre in Kowloon East which he had been calling for.</p> <p>The Administration replied that it would endeavour to identify suitable hotels designated for quarantine purpose. In the meantime, new arrangements had been made such that visitors for persons under quarantine were disallowed, and new directions on requirements on quarantine arrangements in designated hotels, including segregating persons under quarantine and other guests on different floors, would be issued in due course. As regards virus testing, the Administration had directed contractors of community testing centres to conduct testing for children under six years old as far as possible, and children aged between three and six years old could make use of deep throat saliva specimen for testing. In the meantime, the distribution of specimen packs at general outpatient clinics would meet the need of local residents and the Administration would continue to increase the number of distribution points.</p> <p>In response to Mr Wilson OR's call for population-wide mandatory testing, the Administration advised that it had been stepping up testing efforts in a three-pronged approach, in which specified persons were required to undergo compulsory testing, targeted groups were arranged to undergo multiple testing and the general public were encouraged to undergo testing on a voluntary basis.</p>	
010824 - 011234	Chairman Dr CHENG Chung-tai Admin	Dr CHENG Chung-tai sought information on the one-off ex-gratia cash allowance of \$5,000 for locally confirmed coronavirus disease 2019 ("COVID-19") patients as recently introduced by the Administration. In his view, it appeared to be unreasonable if a person who contracted COVID-19 would be provided with such cash allowance. The Administration should leverage the resources by, for example, giving away souvenirs to persons who received virus testing to boost testing rate. The Administration took note of the suggestion.	
011235 - 012448	Chairman Mr CHAN Chun-ying Ms Elizabeth QUAT Admin	<p>Expressing concern about the way the Administration disseminated information on the tightening or relaxation of social distancing measures to members of the public, Mr CHAN Chun-ying enquired about the Administration's criteria for adjusting such measures. The Administration advised that the social distancing measures would be reviewed having regard to, inter alia, the development of the epidemic situation and public health risk assessments. It was noted that the development of the epidemic situation showed different patterns in different waves. As such, there were no strict criteria as to when and how such measures would be adjusted. It would strive to improve the release of information.</p> <p>Mr CHAN Chun-ying considered it necessary to increase the amount of the fixed penalty of the existing emergency public health regulations under Cap. 599, as it appeared to be illogical if a person, who contracted COVID-19 due to participation in a prohibited group gathering or non-compliance with the requirement of wearing a mask at specified public place, could discharge the liability for the offence concerned by the payment</p>	

Time marker	Speaker	Subject(s)/Discussion	Action required
		<p>of a fixed penalty of \$2,000 on the one hand, but was provided with a one-off ex-gratia cash allowance of \$5,000 on the other hand. Ms Elizabeth QUAT shared a similar view. The Administration advised that it would not rule out the possibility to increase the amount of the fixed penalty to enhance deterrent effect against non-compliance with the relevant requirements.</p> <p>Ms Elizabeth QUAT called on the Administration to make reference to overseas practice to prohibit all kinds of gathering in any premises. She also sought information on the risk of importing COVID-19 into Hong Kong through imported frozen commodities and requested the Administration to consider conducting random virus tests on frozen commodities and regularizing the free virus testing services for personnel handling such commodities. The Administration advised that it would monitor the development of the epidemic situation and review the social distancing measures from time to time. As regards the risk of importing COVID-19 into Hong Kong via imported frozen commodities, the Centre for Food Safety had been conducting regular precautionary virus tests on imported frozen food. It was of the utmost importance that personnel handling such frozen commodities maintained a good personal hygiene.</p>	Admin
012449 - 012723	Mr Wilson OR Admin	Mr Wilson OR enquired whether a special arrangement could be made to exempt the virus testing fee for persons who had visited the premises where outbreak clusters were found but did not participate in the high-risk activities involved. The Administration advised that services were currently in place to cater for the need of persons who would like to undergo testing on a voluntary basis, including the distribution of specimen collection packs at outpatient clinics and post offices. It would strengthen the publicity in this regard.	
012724 - 013607	Chairman Dr CHENG Chung-tai Admin	Dr CHENG Chung-tai sought information on the criteria for classifying a person as belonging to a high-risk or high-exposure group and when a compulsory testing notice should be issued. He urged the Administration to designate testing venues for targeted groups subject to compulsory testing and proactively identify infected persons. The Administration advised that it had been adopting different testing strategies for persons with different risks: those with the highest risks who were likely to be infected as well as their close contacts would be arranged for testing as soon as possible and be put under compulsory quarantine if necessary; those with relatively lower risks but were also possibly infected would be required to undergo testing according to the compulsory testing notice; and those who had passed by the high-risk premises but were not directly involved in the high-risk activities could receive testing on a voluntary basis.	
013608 - 013637	Chairman	Commencement of examination of 13 items of subsidiary legislation relating to social distancing measures	
013638 - 013958	Chairman Admin	Examination of three items of subsidiary legislation in respect of Cap. 599F	

Time marker	Speaker	Subject(s)/Discussion	Action required
		<u>Examination of L.N. 147, 150 and 200 of 2020</u>	
013959 - 014527	Chairman Admin	Examination of six items of subsidiary legislation in respect of Cap. 599G <u>Examination of L.N. 141, 148, 151, 162, 201 and 209 of 2020</u>	
014528- 015110	Chairman Admin ALA6	Examination of the provisions of the Prevention and Control of Disease (Wearing of Mask) (Public Transport) Regulation (Cap. 599I) and three items of subsidiary legislation making amendments to Cap. 599I <u>Examination of L.N. 143, 149, 160 and 203 of 2020</u> One of the Legal Advisers to the Subcommittee advised that no further follow-up actions on the legal and drafting aspects of L.N. 143 and L.N. 149 of 2020 were required in respect of the Administration's replies [LC Paper Nos. CB(2)174/20-21(22) and CB(2)202/20-21(01)] to the Legal Service Division's letters dated 31 July and 5 August 2020 [LC Paper Nos. CB(2)174/20-21(21) and (23)].	
015111 - 015133	Chairman ALA3	Another Legal Adviser to the Subcommittee confirmed that no difficulties relating to the legal and drafting aspects of the English text of the above 13 items of subsidiary legislation had been identified.	
015134 - 015352	Chairman Admin ALA3	Commencement of examination of two items of subsidiary legislation relating to disclosure of information measures (i.e. the Prevention and Control of Disease (Disclosure of Information) Regulation (Cap. 599D) <u>Examination of L.N. 145 and 159 of 2020</u> The relevant Legal Adviser to the Subcommittee advised that no further follow-up actions on the legal and drafting aspects of L.N. 159 of 2020 were required in respect of the Administration's reply [LC Paper No. CB(2)202/20-21(02)] to the Legal Service Division's email of September 2020. He also confirmed that no difficulties relating to the legal and drafting aspects of the English text of the above two subsidiary legislation items had been identified.	
<i>Agenda item II: Any other business</i>			
015353 - 015607	Chairman	Legislative timetable Arrangement for the next meeting	