

**立法會**  
**Legislative Council**

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(These minutes have been seen  
by the Administration)

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

**Minutes of the ninth meeting  
held on Monday, 24 May 2021, at 10:30 am  
in Conference Room 3 of the Legislative Council Complex**

**Members Participating** : Dr Hon CHIANG Lai-wan, SBS, JP (Chairman)  
Hon YIU Si-wing, BBS (Deputy Chairman)  
Hon Frankie YICK Chi-ming, SBS, JP  
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  
Hon LUK Chung-hung, JP  
Dr Hon CHENG Chung-tai

**Members absent** : Hon Mrs Regina IP LAU Suk-ye, GBS, JP  
Hon CHAN Han-pan, BBS, JP

**Public officers Attending** : Dr CHUI Tak-yi, JP  
Under Secretary for Food and Health  
  
Mr Chris FUNG Pan-chung  
Principal Assistant Secretary for Food and Health  
(Health) 3  
Food and Health Bureau

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

Mr Michael KWAN Ke-lin  
Principal Assistant Secretary for Food and Health  
(Health) Special Duties  
Food and Health Bureau

Miss Winnie CHUI Hiu-lo  
Principal Assistant Secretary for Food and Health  
(Health) Special Duties 2  
Food and Health Bureau

Miss Diane WONG Shuk-han, JP  
Deputy Director of Food and Environmental  
Hygiene (Environmental Hygiene)

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

Miss Annet LAI Chau-mei  
Acting Senior Government Counsel  
Department of Justice

Mr Michael CHOI Tin-yau  
Government Counsel  
Department of Justice

**Clerk in attendance** : Mr Colin CHUI  
Chief Council Secretary (4)3

**Staff in attendance** : Ms Vanessa CHENG  
Assistant Legal Adviser 5

Miss Natalie YEUNG  
Council Secretary (4)3

Miss Ariel SHUM  
Legislative Assistant (4)3

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**I. Meeting with the Administration**

[L.N. 52 to 53 of 2021, Legislative Council Brief issued by the Food and Health Bureau on 30 April 2021, LC Paper Nos. LS68/20-21, CB(4)967/20-21(01) to (03) and CB(4)994/20-21(01) to (02)]

(Index of proceedings of the meeting is attached at the **Appendix**.)

At the invitation of the Deputy Chairman, Under Secretary for Food and Health briefed members on the Prevention and Control of Disease (Requirements and Directions) (Business and Premises) (Amendment) (No. 2) Regulation 2021 (L.N. 52 of 2021) and the Prevention and Control of Disease (Prohibition on Group Gathering) (Amendment) (No. 3) Regulation 2021 (L.N. 53 of 2021).

Enforcement of the Prevention and Control of Disease (Requirements and Directions) (Business and Premises) Regulation (Cap. 599F)

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

2. Some members enquired about the number of catering businesses with Type C or D mode of operation ("Type C premises" and "Type D premises") and whether inspections had been conducted on the implementation of such modes of operation. There was a suggestion that a list of catering businesses adopting these two types of mode of operation should be uploaded onto the internet. Noting that staff of Type D premises were required to check customers' vaccination records and the Administration earlier announced that a mobile application would be developed to facilitate the trade, some other members asked if the mobile application was ready for use.

3. The Administration 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 had registered as Type C premises and none registered as Type D premises. Some premises might not have registered online yet, and they would be advised to do so by the Administration. Checks were being conducted to ascertain whether Type C premises (and Type D premises when there were such registrations) had operated according to the mode of operation they had registered for. Regarding identification of Type C premises and Type

D premises, the operator of a catering premises was 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 had been given to catering premises during inspections. The Administration would explore the feasibility of members' suggestion of releasing information on Type C premises (and Type D premises when there were such registrations) on its webpage and, might liaise with operators of the premises concerned as necessary. The mobile application for checking vaccination record had been available for downloading since 29 April 2021 and, as at 23 May 2021, downloading of over 19 000 times had been recorded. Apart from written guides available from 29 April 2021, a tutorial video on the use of the application had also been uploaded on the Government's webpage since 21 May 2021.

*(Post-meeting note: A list and location maps of catering premises under Types C and D Modes of Operation have been uploaded on the Government's webpage since 9 June 2021.)*

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

4. Some members enquired about the inspections and enforcement actions conducted on catering business premises and scheduled premises, particularly on how the Administration could verify the accuracy of information provided by the customers and if any customers had been prosecuted for providing false information. In this connection, the Administration was also requested to advise for how long the premises concerned should keep the information provided by customers; and in respect of a confirmed COVID-19 case which had 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.

5. The Administration advised that 39 777 and 14 212 inspections had 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 had been initiated against the responsible persons of catering business premises concerned 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 where 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 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.

*(Post-meeting note: The Administration provided, under item (a) of LC Paper No. CB(4) 1039/20-21(02) dated 28 May 2021, supplementary information on DH's follow-up actions regarding venues visited by confirmed cases of COVID-19.)*

*Arrangements for clubhouses and bars/pubs*

6. Some members enquired 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 suggested that the restrictions on the number of customers at catering business premises should be removed if all staff and customers thereof had completed the COVID-19 vaccination course (i.e. 14 days after the second vaccine dose).

7. The Administration explained that mahjong-tin kau premises could only operate until 11:59 pm according to the relevant licensing conditions. It had been reviewing 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 would be covered under such reviews.

8. Noting that the specification and directions issued under Cap. 599F required staff and customers of bars and pubs to have received the first dose of COVID-19 vaccine, some members considered such mandatory measure unfair and posing huge difficulties for bars and pubs to resume business. Some other members were 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 was allowed. They called on the Administration to educate the public on the penalty for patronizing unlicensed bars and pubs.

9. The Administration explained that the mandatory specific measures and mode of operation applicable to bars and pubs for their resumption of business had 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 also had regular communication channels with licensed bars and pubs. As regards unlicensed bars and pubs, the Police had been taking enforcement operations against them.

*Fresh air supply to catering business premises*

10. Some members enquired about the number of restaurants which had already installed air purifiers 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 devices.

11. The Administration advised that as at 23 May 2021, 9 904 restaurants had already achieved 6 air changes per hour or installed air purifiers. 4 899 licensed catering premises had applied for an extension of time and would meet the requirement in due course. Among the remaining 3 000 plus cases, the Government was ascertaining the status of such cases, and some might be suspending business due to the pandemic. Under the Anti-epidemic Fund, subsidy had been provided to restaurants and this could be used for installing air purifiers.

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

12. Assistant Legal Adviser 5 ("ALA5") queried whether any directions applicable to any person who entered or was present on any catering business premises and/or scheduled premises (with reference to the new sections 7AA(1) and 9AA(1) of Cap. 599F) in relation to the production of record, document or information 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 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 under the Hong Kong Bill of Rights Ordinance (Cap. 383). Details of her query were set out in paragraphs 1 and 2 of LC Paper No. CB(4)967/20-21 (03) dated 4 May 2021. The Administration explained its response to ALA5's aforesaid query, which was set out in paragraphs 2 to 8 of LC Paper No. CB(4)994/20-21(01) dated 20 May 2021.

Enforcement of the Prevention and Control of Disease (Prohibition on Group Gathering) Regulation (Cap. 599G)

*Capacity of outdoor premises*

13. Regarding an exempted group gathering during a religious activity, some members enquired how the Administration determined the capacity of outdoor premises given that there might not be any indication of capacity. The Administration was also requested to consider if the capacity limit of spectator stands at sports premises, which was capped at 75%, could be relaxed.

14. The Administration explained that the capacity limit of an outdoor premises for holding an exempted group gathering during a religious activity was determined on the basis of the number of persons that might 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 7 above.

*Group tours*

15. Regarding an exempted tour gathering, a member requested the Administration to relax the restriction on the number of participants by increasing the limit from 30 to 50 persons. The Administration was also requested to advise whether a member of the mutual aid committee ("MAC") which had commissioned the relevant licensee to organize a tour would be considered a staff member of the relevant tour gathering, whether there could be more than one licensee for a tour and which department(s) were responsible for the relevant enforcement work.

16. The Administration advised that, as with other restrictions and requirements imposed as part of the social distancing measures, the maximum number of participants allowed in exempted tour gatherings would be covered in the regular review mentioned in paragraph 7 above. It also pointed out that "staff member" (its definition was provided in the new section 1 of Part 2 of Schedule 1 to Cap. 599G) referred 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. According to the Food and Health Bureau's understanding based on previous discussions with the Tourism Commission, there was 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 participated in the tour in such capacity would be considered staff members of the tour concerned. Apart from the Administration, the Travel Industry Council of Hong Kong would be responsible for ensuring compliance with vaccination/testing requirement and other social distancing or infection control measures by travel agents under the registration arrangement for organizing group tours, hence playing an important role in enforcing the relevant requirements.

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

17. ALA5 asked the Administration to clarify the circumstances under which a police officer might use reasonable force under the new sections 5C(3) and 5D(3) of Cap. 599G. Details of her query were set out in paragraph 3 of LC Paper No. CB(4)967/20-21 (03) dated 4 May 2021. The Administration explained its response to ALA5's aforesaid request, which was set out in paragraphs 9 and 10 of LC Paper No. CB(4)994/20-21(01) dated 20 May 2021.

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

18. ALA5 enquired what would constitute "reasonable steps" for the purposes of sections 7(1B)(b)(ii) and 7(1C)(b)(ii) of Cap. 599G. Details of her enquiry were set out in paragraph 4 of LC Paper No. CB(4)967/20-21 (03) dated 4 May 2021. The Administration explained its response to ALA5's aforesaid request, which was set out in paragraphs 11 to 15 of LC Paper No. CB(4)994/20-21(01) dated 20 May 2021.

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

19. Some members were concerned about outdoor gatherings of more than four foreign domestic helpers ("FDH") each on weekends and general holidays, which violated Cap. 599G and posed potential risks of spreading COVID-19. The Administration was requested to take enforcement actions against such gatherings proactively.

20. The Administration responded that joint operations among government departments had been carried out at popular public places involving such gatherings of FDH. A list of locations where a large number of such FDH gatherings usually took place had been prepared for the purposes of joint operations. Members were welcome to propose locations for inclusion in the list.



Border control measures

*Return2hk Scheme*

21. 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. They considered that the announcements on the classification and on revised classification a few hours later on the same day had created a lot of confusions. They enquired if there was any mechanism for reviewing the classification of medium risk and high risk places and which bureau/department was responsible for determining the level of risk of places. They called 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.

22. In response, the Administration lamented the confusion of information given to the public. The Administration would consider a basket of factors in deciding whether or not to adjust the implementation details of the Scheme. The Administration would 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*

23. Considering that the number of COVID-19 cases might not be reduced to zero in the short term, some members enquired if the Administration would resume border traffic with the Mainland when the risk of spreading COVID-19 in the community was low and controllable. They also suggested that people who had completed vaccination course should be given priority to cross the border. The Administration advised that it would step up efforts in communicating with the Mainland regarding the subject matter.

*Hong Kong-Singapore Air Travel Bubble*

24. Some members enquired under what conditions the Administration would resume discussion with the Singaporean Government regarding the Hong Kong-Singapore Air Travel Bubble arrangement. The Administration advised that the Commerce and Economic Development Bureau would resume the relevant discussion once the epidemic situation in Singapore subsided.

Vaccination

25. Some members urged the Administration to boost the vaccination rate among civil servants and healthcare staff and stressed 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-pays basis after the end of the free vaccination programme) should be taken. They also asked the Administration to step up its efforts to encourage the public to receive vaccination. In this connection, they also asked if children aged below 12 could receive vaccination. They also suggested inviting medical experts to explain more on the adverse effects that might arise from vaccination and providing outreach vaccination service in places with many restaurants.

26. The Administration pointed out that it would 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 would 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 had been approved to be administered to younger age groups in the United States of America. The Administration would obtain relevant data and consider lowering the age limit for receiving the vaccine, having regard to the safety and efficacy of the vaccine and the advice of the Advisory Panel on COVID-19 Vaccines.

### Compulsory quarantine

27. Some members asked whether a medical certificate (commonly known as "病假紙") could be issued by DH to people who were 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 was 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).

*(Post-meeting note: The Administration's response to the aforesaid enquiry was set out under item (b) of LC Paper No. CB(4) 1039/20-21(02) dated 28 May 2021.)*

### Completion of scrutiny

28. The Chairman concluded that the Subcommittee had completed the scrutiny of and generally supported L.N. 52 and 53 of 2021 and would report on its deliberations to the House Committee at its meeting on 4 June 2021.

**II. Any other business**

29. There being no other business, the meeting ended at 12:36 pm.

Council Business Division 4  
Legislative Council Secretariat  
22 July 2021

**Proceedings of the ninth meeting of the  
Subcommittee on Subsidiary Legislation  
Relating to the Prevention and Control of Disease  
on Monday, 24 May 2021, at 10:30 am  
in Conference Room 3 of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
<b>Agenda item I: Meeting with the Administration</b>			
000656-001011	Deputy Chairman Administration	(The Deputy Chairman took the chair in the temporary absence of the Chairman.)  Briefing by the Administration	
001012-001625	Deputy Chairman Mr CHAN Chun-ying Administration	Return2hk Scheme  Catering businesses with Type C or D mode of operation  Boosting vaccination rate	
001626-002251	Deputy Chairman Dr CHENG Chung-tai Administration	Return2hk Scheme	
002252-003010	Deputy Chairman Mr POON Siu-ping Chairman Administration	Use of "LeaveHomeSafe" mobile application or leaving written information in lieu  Vaccination for children  Feasibility of re-opening border between Hong Kong and the Mainland  (The Chairman took the chair.)	
003011-003811	Chairman Mr SHIU Ka-fai Administration	Return2hk Scheme  Proposed relaxation on operating hours for clubhouses	
003812-004607	Chairman Mr YIU Si-wing Administration	Restriction on number of participants for group tours  Feasibility of re-opening border between Hong Kong and the Mainland  Hong Kong-Singapore Air Travel Bubble	
004608-005118	Chairman Dr Pierre CHAN Administration	Proposed uploading of a list of Types C and D premises on the Internet	
005119-005721	Chairman Mr LUK Chung-hung Administration	Return2hk Scheme  Boosting vaccination rate	

<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action required</b>
005722-010527	Chairman Mr Wilson OR Administration	Boosting vaccination rate  Feasibility of re-opening border between Hong Kong and the Mainland  Outdoor gatherings of foreign domestic helpers on weekends and general holidays	
010528-011223	Chairman Ms Elizabeth QUAT Administration	Return2hk Scheme  Boosting vaccination rate  Outdoor gatherings of foreign domestic helpers on weekends and general holidays	
011224-011512	Chairman Mr SHIU Ka-fai Administration	Proposed relaxation on operating hours and capacity limit for clubhouses and bars/pubs	
011513-012042	Chairman Mr LUK Chung-hung Administration	Compulsory quarantine	Supplementary information was provided by the Administration on 28 May 2021 vide LC Paper No. CB(4)1039/20-21(02)
012043-012510	Chairman Mr CHAN Chun-ying Administration	Fresh air supply to catering business premises  Mobile application for Type D premises to check vaccination record	
012511-012733	Chairman Ms Elizabeth QUAT Administration	Boosting vaccination rate  Outdoor gatherings of foreign domestic helpers on weekends and general holidays	
012734-013041	Chairman Dr CHENG Chung-tai Administration	Operating restrictions for bars/pubs	
013042-013249	Chairman Mr Wilson OR Administration	Catering businesses with Type C or D mode of operation  Boosting vaccination rate	
013250-013424	Chairman Mr LUK Chung-hung Administration	Compulsory quarantine	
013425-013758	Chairman Administration	Section-by-section examination L.N. 52 of 2021	

<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action required</b>
013759-013912	Assistant Legal Adviser 5 ("ALA5")	Directions in relation to production of record, document or information	
013913-014146	Chairman Administration	Section-by-section examination L.N. 52 of 2021	
014147-014655	Chairman Mr LUK Chung-hung Administration	Use of "LeaveHomeSafe" mobile application or leaving written information in lieu	
014656-015008	Chairman Mr Wilson OR Administration	Clarification of definition Use of "LeaveHomeSafe" mobile application or leaving written information in lieu	
015009-015135	Chairman Mr LUK Chung-hung Administration	Use of "LeaveHomeSafe" mobile application or leaving written information in lieu	Supplementary information was provided by the Administration on 28 May 2021 vide LC Paper No. CB(4)1039/20-21(02)
015136-015528	Chairman Administration	Section-by-section examination L.N. 52 of 2021 Section-by-section examination L.N. 53 of 2021	
015529-015649	Chairman ALA5 Administration	Defence under the new sections 7(1B) and 7(1C) of Cap. 599G	
015650-015809	Chairman Mr Wilson OR Administration	Defence under the new sections 7(1B) and 7(1C) of Cap. 599G	
015810-020313	Chairman Administration	Section-by-section examination L.N. 53 of 2021	
020314-020555	Chairman Mr LUK Chung-hung Administration	(The Chairman informed members of her decision to extend the meeting for 15 minutes beyond its appointed time to allow more time for discussion.) Capacity of outdoor premises	
020556-020926	Chairman Mr Wilson OR Administration	Clarification of definition Group tours	
020927-021023	Chairman ALA5	Completion of scrutiny	

<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action required</b>
	Chairman		
<b>Agenda item II: Any other business</b>			
021024-021035	Chairman	Closing remarks	

Council Business Division 4  
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