

立法會
Legislative Council

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

**Minutes of the tenth meeting
held on Tuesday, 13 July 2021, at 10:45 am
in Conference Room 3 of the Legislative Council Complex**

- Members present** : Hon YIU Si-wing, SBS (Deputy Chairman)
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
- Members absent** : Dr Hon CHIANG Lai-wan, SBS, JP (Chairman)
Hon Mrs Regina IP LAU Suk-ye, GBM, GBS, JP
Hon Frankie YICK Chi-ming, SBS, JP
Hon CHAN Han-pan, BBS, JP
Dr Hon CHENG Chung-tai
- Public Officers attending** : Dr CHUI Tak-yi, JP
Under Secretary for Food and Health
- Ms Ellen CHAN Sheung-man
Principal Assistant Secretary for Food and Health
(Health) 7
- Mr Michael KWAN Ke-lin
Principal Assistant Secretary for Food and Health
(Health) Special Duties

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

Mr Wallance NG Long-ting
Acting Senior Government Counsel
Department of Justice

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

**Staff in
attendance** : Mr Mark LAM
Assistant Legal Adviser 7

Ms Macy NG
Senior Council Secretary (4)3

Miss Ariel SHUM
Legislative Assistant (4)3

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I. Meeting with the Administration

[File Ref.: L.Ns. 102 and 103 of 2021, Legislative Council Brief issued by the Food and Health Bureau (English and Chinese versions issued on 23 and 25 June 2021 respectively, LC Paper Nos. LS85/20-21, CB(4)1187/20-21(01) to (03)]

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

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

Resumption of "cruise-to-nowhere" itineraries

2. Some members enquired how to differentiate a cruise ship for "cruise-to-nowhere" ("CTN") itineraries from a pleasure vessel. They also asked

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whether passengers on board a cruise ship for CTN itineraries, be it within or outside Hong Kong waters, would be subject to the social distancing measures imposed under the relevant subsidiary legislation of the Prevention and Control of Disease Ordinance (Cap. 599). There were also concerns about the arrangements to be made for passengers if there was a suspected case of COVID-19 on board a cruise ship during the journey. The Administration was also requested to relax the requirement that passengers must present a negative result of a COVID-19 polymerase chain reaction-based nucleic acid test ("COVID-19 test") the sample of which must be taken within 48 hours prior to boarding by extending the duration to 72 hours.

3. The Administration advised that, under Cap. 599F, a cruise ship was different from a pleasure vessel in that the boarding of the former involved passage through immigration control. Facilities in a cruise ship were required to meet all relevant infection control requirements imposed on similar premises, e.g. a fitness centre on a cruise ship should meet the relevant infection control requirements imposed on fitness centres under Cap. 599F. If a cruise ship had provided passengers with a contact tracing device, then passengers would only need to scan the "LeaveHomeSafe" QR code prior to boarding the cruise ship and would not need to scan the QR code before entering a facility therein where a requirement in relation to "LeaveHomeSafe" was applicable. If passengers were not provided with a contact tracing device, scanning the "LeaveHomeSafe" QR code before entering relevant facilities in the cruise ship was required. Since Cap. 599F did not apply on high seas, cruise lines operating CTN itineraries must sign an undertaking on their due compliance with the directions issued under Cap. 599F in respect of relevant facilities and the aforementioned health protocols at all times throughout CTN itineraries, including when the cruise ships were outside Hong Kong waters. So far two cruise lines had signed the undertaking with the Administration, one of which would resume operation in late July 2021. According to the undertaking already signed by the cruise operators, the Administration had the full discretion to suspend any or all CTN itineraries due to any non-compliance by a single cruise operator or the cruise industry in general. The Tourism Commission was responsible for enforcing Cap. 599F on a cruise ship and would take various measures to ensure compliance with relevant infection control requirements on a cruise ship.

4. The Administration further advised that under general circumstances, when there was a suspected COVID-19 case on board a vessel travelling into Hong Kong, the vessel concerned would be required to proceed to quarantine anchorage and allow the Port Health Division of the Department of Health ("DH") to carry out investigation before letting passengers leave the ship. The Administration would work out details of the testing and quarantine

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arrangements in this regard. Regarding the proposed extension of time allowed for passengers of CTN itineraries to take the COVID-19 test, the Administration explained that since it was the first time to resume cruise operation over the past year or so, a prudent approach should be adopted. The arrangement might be reviewed after experience had been gained from the resumption of cruise operation.

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

Relaxation of restrictions of certain exempted group gatherings

5. Members noted that for a group gathering during a wedding ceremony, a certain meeting or a religious activity held at a place of worship, Cap. 599G (as amended by L.N. 103 of 2021) relaxed the restriction on the number of participants of such gathering to 50% of the number of persons that might normally be accommodated on the premises as a place for wedding ceremony or meeting, or a place of worship. Given that the maximum number of persons allowed in cinemas, performance venues and spectator stands at sports venues had already been relaxed to 85% of the normal capacity of the premises, the Administration had been asked to explain the rationale for the lower extent (i.e. 50%) of relaxation.

6. Members also noted that the amended Cap. 599G also relaxed the restriction on the number of participants of a group gathering during a wedding ceremony, a certain meeting or a religious activity to 100% of the number of persons that might normally be accommodated on the premises as a place for wedding ceremony or meeting, or a place of worship, provided that each of the participant in the gathering was a qualified person according to the conditions specified by the Secretary for Food and Health, which was at least two-thirds of the participants of the group gatherings concerned had received the first dose of COVID-19 vaccine. Questions had been raised about enforcement in this regard, including the number of enforcement actions taken against such group gatherings and the number of cases of non-compliance with the vaccination requirements etc. as well as whether the Administration would verify with the operators of the premises on compliance with the vaccination requirement. The Administration was also requested to seek the help of religious leaders to encourage believers to get vaccinated.

7. Regarding the difference in the extent of relaxation for different premises/activities, the Administration explained that the extent of relaxation of the restriction on group gatherings was determined having regard to, inter alia, previous restrictions on those types of group gatherings. Under the new

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direction of fighting the pandemic announced in April 2021, it would refrain from imposing one-size-fits-all restrictions on group gatherings and premises regulated under Cap. 599F when adjusting the social distancing measures. It also advised that, while figures on enforcement actions in respect of the aforementioned group gatherings (including statistics on cases of non-compliance) were not yet available, in general, regarding premises or group gatherings to which vaccination requirements were applicable, enforcement actions had to be carefully planned as participants of the group gatherings or patrons/users of premises might go in and out of the premises concerned. Decoy operations might need to be conducted for enforcement purposes. Regarding promotion of vaccination, Government bureaux would liaise with their respective stakeholders to encourage vaccination, of which religious organizations were among the Home Affairs Bureau's key stakeholders. It was believed that promotion of vaccination by influential persons was in general an effective way to boost vaccination rate.

Exempted group gathering for a tour of not more than 100 people

8. Members noted that Cap. 599G (as amended by L.N. 103 of 2021) provided 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 was a qualified person except when taking place at any premises in relation to which a direction under Cap. 599F was in force. A question had been raised as to whether such exemption would apply to a group gathering of a tour of 300 persons which had been divided into three tours each of 100 persons.

9. The Administration advised that it would consider the actual circumstances of the group gathering in question for determining whether it constituted a group gathering for a tour of 300 persons, which was not an exempted group gathering, or three group gatherings each for a tour of 100 persons, which were exempted group gatherings. The factors for consideration included, inter alia, whether the three tours had interactions during the journey and whether the itineraries of these tours were identical.

Border control measures

Measures to prevent importation of cases

10. Arising from the recent three confirmed cases involving persons working in the Hong Kong International Airport ("HKIA") and a designated quarantine hotel, some members expressed grave concern about whether there were loopholes in the measures to prevent importation of cases. They

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requested the Administration to provide supplementary information on the vaccination status of the confirmed cases and requested the Administration to tighten the measures to prevent the importation of cases, such as requiring staff members working at HKIA and designated quarantine hotels to get vaccinated and obtain positive antibody test result, and improving the flight suspension mechanism.

(Post-meeting note: The Administration's response was issued to members via LC Paper No. CB(4)1253/20-21(02) on 15 July 2021.)

11. The Administration advised that DH was conducting an epidemiological investigation of the person who was the most recently infected case among the three confirmed cases to see if there was a transmission link. If the source of infection was found to be HKIA, DH would review the flow of work of the person concerned to see if there was any room for improvement in relation to infection control. The Administration noted that the Airport Authority ("AA") had imposed a requirement (which would take effect from 1 August 2021) that all employees who entered the restricted area of HKIA must show either a certificate of vaccination or a certificate of negative results of a COVID-19 test taken within 14 days. The Administration had been reviewing the anti-epidemic measures on a regular basis. The compulsory quarantine period for fully-vaccinated persons who arrived at Hong Kong from relatively low-risk countries and with a positive result of serology testing for antibodies had been shortened. Such adjusted measure was to implement the interim recommendations of the Scientific Committee on Vaccine Preventable Diseases and the Scientific Committee on Emerging and Zoonotic Diseases joined by the Chief Executive's expert advisory panel. The Administration would adjust the quarantine and testing requirements for persons arriving from overseas having regard to, inter alia, the epidemic situation in places outside Hong Kong. In this connection, in view of the recent epidemic development in Russia, the Administration had tightened the quarantine requirements for persons arriving therefrom.

Cross-border travels between Mainland and Hong Kong

12. Some members asked about the details of the Chief Executive's submission of a report to the Central Government seeking resumption of cross-boundary quarantine-free travels between the Mainland and Hong Kong. They hoped that such travels between the Mainland and Hong Kong could be resumed as soon as possible. They considered that the travellers concerned should be fully vaccinated with valid positive antibody test result. If a quota was set on the number of travellers, priority should be given to people who were waiting for family reunion and business travellers. These

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members also called on the Administration to consider allowing Mainland people to travel to Hong Kong for tourism. The Administration was also requested to establish a mechanism with the Mainland authorities for suspension of cross-boundary quarantine-free travels, so that sporadic cases with low transmission risks would not affect resumption of such travels.

13. The Administration advised that it did not have on hand details of the said report. In the discussion between the Hong Kong Special Administrative Region Government and the Mainland authorities on resumption of cross-boundary quarantine-free travels, consideration would be given to the setting of a quota, the places covered and conditions (e.g. travellers being fully vaccinated, travel for family reunion or business needs) for such resumption. It would also discuss with the Mainland authorities a mechanism for resumption and suspension of cross-border travels.

Hong Kong-Singapore Air Travel Bubble

14. Given that the Singaporean Government had recently changed its infection control strategy regarding notifications of confirmed cases, some members enquired whether the Administration would continue its discussion with the Singaporean Government regarding the Hong Kong-Singapore Air Travel Bubble arrangement. The Administration advised that it would adopt a prudent approach to the discussion.

Vaccination

Boosting vaccination rate

15. Several members urged the Administration to draw up a timetable and road map for boosting the rate of COVID-19 vaccination. They considered that boosting vaccination rate by mere encouragement was not sufficient. Instead, the Administration should require civil servants, staff of subvented organizations, AA, Hospital Authority ("HA"), schools and institutions providing care services to receive vaccination to protect themselves and other people. As regards the arrangement whereby civil servants who had been vaccinated before the implementation of vaccination leave would also be eligible for such type of leave, the Administration was requested to make similar arrangement for staff of Government contractors.

16. The Administration advised that it was optimistic about the vaccination rate. About 2.7 million people had received the first dose of COVID-19 vaccine. Nevertheless, it would review the arrangement for vaccination with a view to boosting the vaccination rate. It would not require but encourage members of the public to get vaccinated. HA was providing

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incentives to encourage more staff members to receive vaccination. The current vaccination rate of HA doctors was about 80% and HA nurse was about 45% and both rates were on the rise. Universities had developed their own vaccination requirements on vaccination for students to use universities' facilities, such as accommodation. DH would offer views on vaccination to the Education Bureau if it planned to resume full-day class teaching. The Administration had taken the lead in providing vaccination leave for its employees and hoped other sectors would follow.

Vaccination records in "LeaveHomeSafe" App

17. Given that vaccination records could be stored in more than one "LeaveHomeSafe" ("LHS") accounts since the procedure for storing vaccination records did not involve identity authentication, concerns had been raised on the use of other people's vaccination records. There was a suggestion that the Administration might consider only allowing vaccination records to be stored in the eHealth App or the iAM Smart App, which was unique to the individual concerned, to address the concerns.

18. The Administration pointed out that with powers conferred under Cap. 599F, enforcement officers could check identity documentation during inspections but so far no violation had been identified in relation to using others' vaccination records. While the operators of the relevant catering premises and scheduled premises used the QR Code Verification Scanner App ("eVT App"), authorized officers had been provided with an internal tool in the form of a Scanner App with more functions, which could help check compliance with the vaccination requirements, including enforcing against an individual using another person's vaccination record. Also, the Administration had been updating the eVT App from time to time in the light of new development. For example, members of the public could now display their vaccination record QR codes on their eHealth accounts; and after operators had updated their eVT App, they could use it to scan those vaccination record QR codes on the customers' eHealth accounts as well. Mindful of the user-friendliness angle, the Administration was inclined to provide more choices of platforms for members of the public to store their vaccination records (e.g. paper vaccination record, image stored in photo album or gallery of a mobile device, eHealth App, iAM Smart App and LHS).

Mask-wearing requirement

19. A question had been raised on whether fully vaccinated persons in sports premises could be exempted from the mask-wearing requirement. The Administration explained that for the relevant part of indoor sports premises

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where all staff and users had been fully vaccinated, users were exempted from wearing masks when exercising in that part of the premises.

Closure of sauna facilities

20. Given that bath-houses had resumed operation, some members enquired whether sauna facilities could be reopened if staff members and customers had been vaccinated. The Administration explained that sauna facilities existed in bath-houses and other scheduled premises, and were still required to be closed. The Administration needed to be prudent in considering their re-opening, as sauna facilities involved higher health risks.

Completion of scrutiny

21. The Deputy Chairman concluded that the Subcommittee had completed the scrutiny of and generally supported the following two items of subsidiary legislation:

- (i) Prevention and Control of Disease (Requirements and Directions) (Business and Premises) (Amendment) (No. 3) Regulation 2021; and
- (ii) Prevention and Control of Disease (Prohibition on Group Gathering) (Amendment) (No. 4) Regulation 2021.

22. Members noted that the Chairman would move a motion at the Council meeting on 14 July 2021 to extend the scrutiny period of the subsidiary legislation to the Council meeting of 18 August 2021. If the motion was passed, the deadline for giving notice of motion to amend the two items of subsidiary legislation was 11 August 2021. Members also noted that a verbal report of the Subcommittee on its deliberations would be made to the House Committee ("HC") at its meeting on 16 July 2021, to be followed by a written report.

(Post-meeting note: The written report (LC Paper No. CB(4)1322/20-21) was submitted to HC on 9 August 2021.)

II. Any other business

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

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Council Business Division 4
Legislative Council Secretariat
2 November 2021

**Proceedings of the tenth meeting of the
Subcommittee on Subsidiary Legislation
Relating to the Prevention and Control of Disease
on Tuesday, 13 July 2021, at 10:45 am
in Conference Room 3 of the Legislative Council Complex**

Time marker	Speaker	Subject(s)/Discussion	Action required
Agenda item I: Meeting with the Administration			
000714-000934	Deputy Chairman	Opening remarks by the Deputy Chairman	
000935-001916	Deputy Chairman Mr CHAN Chun-ying Administration	Enforcement of the Prevention and Control of Disease (Prohibition on Group Gathering) Regulation (Cap. 599G) Extent of relaxation under Cap. 599G Malpractice of using other people's vaccination records in "LeaveHomeSafe" Application	
001917-002804	Deputy Chairman Mr POON Siu-ping Administration	Detailed arrangements of resuming "cruise-to-nowhere" ("CTN") itineraries and enforcement of the Prevention and Control of Disease (Requirements and Directions) (Business and Premises) Regulation (Cap. 599F) within and outside Hong Kong waters Compulsory quarantine period for persons arriving at Hong Kong	
002805-003851	Deputy Chairman Administration	Testing requirements for passengers of cruise ship Arrangements if there was a suspected case of COVID-19 on board a cruise ship Hong Kong-Singapore Air Travel Bubble	
003852-004502	Deputy Chairman Mr LUK Chung-hung Administration	Indication of support to the two items of subsidiary legislation Seeking help of religious leaders to encourage believers to get vaccinated Exemption of mask-wearing requirement for fully vaccinated persons in sports premises	
004503-005154	Deputy Chairman Mr SHIU Ka-fai Administration	Vaccination status of the three recent confirmed cases which involved patients working in a designated quarantine hotel and the Hong Kong Airport Suggestion of requiring staff members working at the airport and designated quarantine hotels to get vaccinated and obtain positive antibody test result	

Time marker	Speaker	Subject(s)/Discussion	Action required
005155-005941	Deputy Chairman Ms Elizabeth QUAT Administration	Requirement of staff of high-risk jobs and users of university facilities to receive vaccination Measures to prevent importation of cases Malpractice of using other people's vaccination records in "LeaveHomeSafe" Application	
005942-010536	Deputy Chairman Mr Wilson OR Administration	Suggestion of mandating people to receive vaccination Prevention of importation of cases under the flight suspension mechanism	
010537-011003	Deputy Chairman Mr POON Siu-ping Administration	Undertaking on the due compliance with the directions issued under Cap. 599F by cruise operators and timing of resuming CTN itineraries Closure of sauna facilities	
011004-011408	Deputy Chairman Mr LUK Chung-hung Administration	Measures to boost the vaccination rate Implementation of vaccination leave for staff of Government contractors	
011409-011831	Deputy Chairman Mr SHIU Ka-fai Administration	Closure of sauna facilities Resumption of cross-border travels between the Mainland and Hong Kong	
011832-012113	Deputy Chairman Administration	Establishment of a mechanism with the Mainland authorities for suspension of cross-border travels	
012114-012300	Deputy Chairman Administration	Section-by-section examination L.N. 102 of 2021 Interpretation of cruise ship and yachts	
012301-013003	Deputy Chairman Assistant Legal Adviser 7 ("ALA7")	Section-by-section examination L.N. 103 of 2021 <u>New item 20 of Schedule 1 to Cap. 599G</u> Provision of an exempted group gathering for certain tour Confirmation by ALA7 that the legal and drafting aspects of both the Chinese and English versions of the two items of subsidiary legislation were in order	
Agenda item II: Any other business			
013004-013121	Deputy Chairman	Legislative timetable Closing remarks	

Council Business Division 4
Legislative Council Secretariat
2 November 2021