

# LEGISLATIVE COUNCIL BRIEF

## PREVENTION AND CONTROL OF DISEASE ORDINANCE (CAP. 599) AMENDMENT REGULATIONS

### INTRODUCTION

At the meetings of the Executive Council on 22 July, 27 July, 20 August and 25 August 2020, the Council **ADVISED** and the Chief Executive **ORDERED** that the following regulations should be made under section 8 of the Prevention and Control of Disease Ordinance (Cap. 599) (“the Ordinance”) for the purpose of preventing, combating or alleviating the public health emergency and protecting public health in Hong Kong –

#### Compulsory Quarantine of Certain Persons Arriving at Hong Kong Regulation (Cap. 599C)

- (a) the **Compulsory Quarantine of Certain Persons Arriving at Hong Kong (Amendment) (No. 5) Regulation 2020** (at Annex A) and the **Compulsory Quarantine of Certain Persons Arriving at Hong Kong (Amendment) (No. 6) Regulation 2020** (at Annex B), which each amends Cap. 599C to extend the expiry date for one month (i.e. from midnight on 7 August 2020 to midnight on 7 September 2020 and from midnight on 7 September 2020 to midnight on 7 October 2020 respectively);

#### Prevention and Control of Disease (Disclosure of Information) Regulation (Cap. 599D)

- (b) the **Prevention and Control of Disease (Disclosure of Information) (Amendment) (No. 2) Regulation 2020** (at Annex C), which amends Cap. 599D to extend the expiry date from midnight on 31 August 2020 to midnight on 31 December 2020 and the **Prevention and Control of Disease (Disclosure of Information) (Amendment) (No. 3) Regulation 2020** (at Annex D), which amends Cap. 599D to empower the Director of Health (“DoH”) to appoint authorized officers for the purposes of that regulation, which –
- (i) empowers authorized officers to require, for the purpose of preventing and controlling the transmission of COVID-19, a person to give any information that they reasonably

- believe is within the knowledge, in the possession or under the control of that person and is relevant to the identification and tracing of any person who may have been exposed to the risk of contracting COVID-19; and
- (ii) provides that the person commits an offence if he/she fails to comply with the requirement under (i) above, or knowingly gives to an authorized officer any information that is false or misleading in a material particular;

Compulsory Quarantine of Persons Arriving at Hong Kong from Foreign Places Regulation (Cap. 599E)

- (c) the **Compulsory Quarantine of Persons Arriving at Hong Kong from Foreign Places (Amendment) (No. 3) Regulation 2020** (at Annex E), which amends Cap. 599E to extend the expiry date from midnight on 18 September 2020 to midnight on 31 December 2020;

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

- (d) the **Prevention and Control of Disease (Requirements and Directions) (Business and Premises) (Amendment) (No. 4) Regulation 2020** (at Annex F), which amends Cap. 599F to extend the expiry date from midnight on 31 August 2020 to midnight on 31 December 2020 and the **Prevention and Control of Disease (Requirements and Directions) (Business and Premises) (Amendment) (No. 5) Regulation 2020** (at Annex G), which amends Cap. 599F to –
  - (i) require the person providing seating or tables for customers of a catering business (in an area outside of the premises of the business) and the person in control of the relevant seating area (e.g. the operator of the seating area in a food court) to comply with the no dine-in requirement for catering businesses by closing the seating area;
  - (ii) include sports premises and swimming pool in Part 1 of Schedule 2 to Cap. 599F; and
  - (iii) empower the Chief Secretary for Administration (“CS”) to exempt any catering business (or category of catering businesses) or any scheduled premises (or category of scheduled premises) from the requirements or restrictions imposed under section 3(1) or under a direction issued under

section 6(1) or 8(1) of Cap. 599F;  
Prevention and Control of Disease (Prohibition on Group Gathering)  
Regulation (Cap. 599G)

- (e) the **Prevention and Control of Disease (Prohibition on Group Gathering) (Amendment) (No. 8) Regulation 2020** (at Annex H), which amends Cap. 599G to extend the expiry date from midnight on 31 August 2020 to midnight on 31 December 2020 and the **Prevention and Control of Disease (Prohibition on Group Gathering) (Amendment) (No. 9) Regulation 2020** (at Annex I), which amends Cap. 599G to reduce the number of persons constituting a prohibited “group gathering” in a public place from more than four persons to more than two persons; and

Prevention and Control of Disease (Wearing of Mask) (Public Transport)  
Regulation (Cap. 599I)

- (f) the **Prevention and Control of Disease (Wearing of Mask) (Public Transport) (Amendment) Regulation 2020** (at Annex J), which amends Cap. 599I to expand the scope of the mandatory mask-wearing requirement to specified public places (in addition to public transport carriers and MTR paid areas) and the **Prevention and Control of Disease (Wearing of Mask) (Amendment) Regulation 2020** (at Annex K), which amends Cap. 599I to include engaging in any physical activity, including exercise, in outdoor places that may reasonably be regarded as strenuous for the person concerned as a reasonable excuse for not wearing a mask.

## JUSTIFICATIONS

### Latest Global Situation

2. As at end August 2020, the number of cases had been on a rapid and continuous rising trend since early March 2020. From late March to May 2020, about 70 000 to 100 000 new cases had been reported every day. The number of cases had further increased to about 220 000 to 280 000 new cases per day in late July to early August 2020. Of note, the number of new cases in the Americas and Southeast Asia had been increasing rapidly while resurgence of cases had been observed in some Western Pacific countries. In the Americas, the number of cases in South American countries had increased sharply since May 2020. There had also been resurgence of cases in the United States since late June 2020. As for South Asia, the number of

new cases in India had been rapidly increasing since April 2020. In the Western Pacific region, there had been resurgence of cases in Australia, Japan and Singapore since June/July 2020, while the number of new cases was still on an increasing trend in the Philippines. New Zealand reported a new locally acquired case on 11 August 2020 despite stringent border control, after recording 102 days with no community transmission.

### **Latest Situation in the Mainland**

3. In the Mainland, the number of cases had decreased to a very low level with less than five new cases on most days by late April to early May 2020. Starting from mid-June 2020, Beijing experienced a large local outbreak related to the Xinfadi Wholesale Market. The first case was reported on 11 June 2020, with a total of 335 local cases in Beijing and 25 cases in other provinces related to cases in Beijing reported up to 5 July 2020. The Xinfadi Wholesale Market reopened in mid-August and the related outbreak was considered to have ended.

4. In Macao, the last case of local infection was reported on 28 March 2020, who was a close contact of an imported case. Since then, all the reported cases had been imported cases. As at end August 2020, a total of 46 cases had been reported in Macao. The 45th and 46th cases were reported on 9 April 2020 and 26 June 2020 respectively.

### **Latest Local Situation**

5. Since early July 2020, there had been a marked upsurge of cases, with a sharp increase in locally-acquired infections. Over 100 daily new cases had been reported for 12 consecutive days from 22 July to 2 August 2020, with a record high of 149 cases on 30 July 2020. The majority of cases reported were locally acquired infections.

6. Unlike the second wave which was brought about mainly by imported cases of returnees, the third wave is characterised by community infection with a widespread distribution geographically and across sectors. Cases affected different groups of people and, of particular concern, elders who are more likely to have severe infections and complications resulting in higher mortality rates. Outbreaks have been reported in various venues, including large outbreaks in catering premises, residential care homes for the elderly (“RCHE”), workplaces, etc.

7. In early July, the larger clusters reported mainly involved restaurants/canteens or shopping malls. The first outbreak involving a RCHE was also reported in the first week of July 2020 which had persisted with new cases reported in the following weeks. Other outbreaks involving RCHEs were reported in July 2020; and since mid-July 2020 more outbreaks related to workplace settings as well as various settings where people commonly gather for daily routine activities were being reported. Notably, there were also outbreaks involving the Kwai Tsing Container Terminals as well as dormitories for foreign domestic helpers.

8. As of end August 2020, while the number of new cases had come down from its peak, it had yet to reach a low level. Moreover, the sources of infection could not be identified in many cases. This indicated that silent or sub-clinical transmission chains were prevalent in the community. It was highly worrying that such transmission chains persisted despite extensive testing of the relevant groups. Unlike the second wave which had been subdued much faster, the third wave was declining slowly notwithstanding the most stringent border control and social distancing measures being imposed since mid-July 2020. The third wave was underway against the backdrop that internationally the epidemic situation and new infections were still on a rising trend. This suggested that the risk of massive community outbreaks remained real and cannot be ignored, and the third wave of the epidemic, which was the most severe Hong Kong had experienced so far, was not yet over.

## **REGULATIONS UNDER CAP. 599**

### Cap. 599C

#### ***(a) Compulsory Quarantine of Certain Persons Arriving at Hong Kong (Amendment) (No. 5) Regulation 2020 and Compulsory Quarantine of Certain Persons Arriving at Hong Kong (Amendment) (No. 6) Regulation 2020***

9. Cap. 599C provides the legal basis for the compulsory quarantine arrangement for arrivals from China (including the Mainland, Macao and Taiwan). We have earlier introduced flexibility to the regime to allow the Secretary for Food and Health (“SFH”) to specify (a) place(s) outside Hong Kong and within China which would remain subject to the compulsory quarantine arrangement (i.e. Category 1 specified place(s)); and (b) such

place(s) which are excluded from the arrangement if certain specified conditions are met (i.e. Category 2 specified place(s)), having regard to the extent of the spread of the disease in that place and the public health risk posed to Hong Kong by persons arriving from that place or who have stayed in that place.

10. In light of the latest local situation, it is essential to continue imposing stringent border control measures to reduce the mobility and flow of people between Hong Kong and the rest of China for the time being. The expiry date of Cap. 599C before the amendments under the two amendment regulations was 7 August 2020. Having regard to the above, we have extended the expiry date of Cap. 599C twice, i.e. from midnight on 7 August 2020 to midnight on 7 September 2020 and from midnight on 7 September 2020 to the midnight on 7 October 2020.

#### Cap. 599D

#### ***(b) Prevention and Control of Disease (Disclosure of Information) (Amendment) (No. 2) Regulation 2020 and Prevention and Control of Disease (Disclosure of Information) (Amendment) (No. 3) Regulation 2020***

##### *(A) Extending the Expiry Date*

11. Cap. 599D empowers, inter alia, a health officer to require a person to disclose or furnish information that is relevant to the handling of a state of the public health emergency and is considered essential and necessary to safeguard the integrity of our public health system for contact tracing and surveillance purposes. The expiry date of Cap. 599D before the amendment was 31 August 2020. Having regard to the continued need for the aforementioned power, we have extended the validity of the regulation for a longer period, for Cap. 599D to expire at midnight on 31 December 2020.

##### *(B) Empowering DoH to appoint officers for work in relation to contact tracing*

12. Contact tracing serves to identify possible sources of infection for the case and establish epidemiological linkage, and prevent further spread of infection from the case by putting the close contacts under quarantine and medical surveillance. It is a well recognised means to effectively contain the spread of the disease.

13. To enable other public officers to take part in the contact tracing work, we have empowered DoH to appoint officers (i.e. “authorized officers”) who may, for preventing and controlling the transmission of COVID-19, require a person to give any information that the officer reasonably believes is within the knowledge, in the possession or under the control of that person and is relevant to the identification and tracing of any person who may have been exposed to the risk of contracting COVID-19. The person will commit an offence if he/she fails to comply with the requirement, or knowingly gives to an authorized officer any information that is false or misleading in a material particular.

Cap. 599E

***(c) Compulsory Quarantine of Persons Arriving at Hong Kong from Foreign Places (Amendment) (No. 3) Regulation 2020***

14. Cap. 599E provides the legal basis for the quarantine arrangement for arrivals from all places outside China. Similar to Cap. 599C, we have introduced flexibility to the regime to allow SFH to specify place(s) outside China which would remain subject to the compulsory quarantine arrangement and place(s) outside China which are excluded from the arrangement if certain specified conditions are met, having regard to the extent of the spread of the disease in that place. Due to the pandemic situation globally, returnees from all foreign places are still subject to compulsory quarantine arrangement unless exempted, at present. The expiry date of Cap. 599E before the amendment was 18 September 2020.

15. Having regard to the latest global situation as detailed in paragraph 2, it is unrealistic to lift such requirement at least within 2020. To allow us to continue to implement the aforementioned border control measures, we have extended the validity of the Regulation for a longer period, for Cap. 599F to expire at midnight on 31 December 2020

Cap. 599F

***(d) Prevention and Control of Disease (Requirements and Directions)  
(Business and Premises) (Amendment) (No. 4) Regulation 2020 and  
Prevention and Control of Disease (Requirements and Directions)  
(Business and Premises) (Amendment) (No. 5) Regulation 2020***

***(A) Extending the Expiry Date***

16. Cap. 599F was introduced in March 2020 to allow us to impose temporary measures on catering business as well as scheduled premises and such measures have been an essential part of our social distancing measures. The expiry date of Cap. 599F before the amendment was 31 August 2020. As we expected that social distancing measures, to varying degree, would still be required in the medium term, we have extended the validity of Cap.599F for a longer period, for the regulation to expire at midnight on 31 December 2020.

***(B) Imposing More Stringent Requirements on Catering Business Premises***

17. Having regard to the epidemic situation then, we have banned dine-in services at catering business premises during certain periods of time every day. However, despite the requirement to cease dine-in services, it was noted that there were still some people dining on-site at food courts and common areas next to/close to some catering business premises after the imposition of the ban. While according to Cap. 599F, operators of catering business are also responsible for areas adjacent to their businesses where seating or tables are made available (whether or not by the business) for their customers, it would seem unreasonable to hold the catering business operators responsible for closing the seating areas at food courts which are not under the control or management of such operators but are shared by multiple catering businesses. As such, it was considered that we needed to hold the owner or manager of the premises on which the seating areas at food courts were located responsible, and we amended section 3 of Cap. 599F accordingly to require the person(s) in control of the seating area to comply with the requirement under section 3(1) in relation to catering business premises.



(C) *Adding New Types of Premises as Scheduled Premises*

18. In view of the sustained and worsening outbreak situation at end July 2020, there was an imminent need to further reduce the movement of and interactions among people in society by regulating more venues/premises and to further discourage people from going out and gathering. As people tend to go out for outdoors activities during summer time, we added the following two types of premises as scheduled premises to Part 1 of Schedule 2 to Cap. 559F and required their closure alongside all other scheduled premises –

(i) *Sports Premises*

19. Sports activities are popular but it is not very practicable to wear masks during such activities, particular in the summer time. As far as public sports premises are concerned, in response to the third wave of local infections, public recreation and sports facilities were temporarily closed administratively for over a month by the Leisure and Cultural Services Department (“LCSD”) as part of the Government’s efforts to enhance social distancing measures. LCSD also stepped up the enforcement of closure of certain facilities to further discourage people from going out and gathering.

20. While the operators of many private sports and recreational facilities invariably agreed to suspend their operation in response to the Government’s appeals, we saw the merits in providing legal backing for mandatory closure or conditional operation. In particular, given the prevailing critical public health situation, a legal provision could better ensure certainty and timely implementation of closure or operation subject to prescribed conditions across the board on all sports premises.

(ii) *Swimming Pool*

21. Swimming is a popular leisure activity in summer but it is impracticable to wear masks when swimming. Swimmers also need to move inside the pool areas and social distancing measures are hard to enforce at swimming pools, thus posing a risk of spreading the virus. Shower facilities in swimming pools are also high-risk facilities as far as disease prevention and control is concerned.

22. Currently, there are about 44 public swimming pools managed by LCSD under the Public Swimming Pools Regulation (Cap. 132BR); some

1 300 swimming pools licensed by Food and Environmental Hygiene Department (“FEHD”) under the Swimming Pools Regulation (Cap. 132CA) and an unknown number of swimming pools<sup>1</sup> where Cap. 132CA does not apply. When the local epidemic situation was severe during the third wave, LCSD closed its public swimming pools with the recreation and sports facilities described in paragraph 19.

23. As regards licensed swimming pools regulated by FEHD, advisory letters were issued to appeal to them to observe anti-epidemic measures in the light of the latest epidemic situation. We understood that some (e.g. in hotels) were closed on their own accord for prudence sake, while some remained open as there was then no legal power for the Government to mandate the closure of private swimming pools (be these licensed or otherwise). Rather than relying on appeal to owners/operators of private swimming pools to close having regard to public health considerations, we considered there was a need to provide legal backing for mandatory closure or imposing requirements or restrictions on their operation in a timely manner under the state of public health emergency then.

*(D) Expanding the Scope of CS’s Exemption*

24. Prior to the amendment, CS, pursuant to section 5(1) of Cap. 599F, had power to designate any catering business or category of catering businesses which is –

- (a) necessary for governmental operation; or
- (b) because of the exceptional circumstances of the case, otherwise serves the public interest of Hong Kong,

for exemption from the requirements/restrictions under section 3(1) of Cap. 599F such as cease selling or supplying food or drink for consumption on the premises of the business; and close any premises, or part of the premises, on which food or drink is sold or supplied by the business for consumption on the premises.

25. We have expanded CS’ exemption power to cover sections 6 and 8 (which empowers SFH to issue directions in relation to the operation of catering business and scheduled premises respectively) as well to allow more flexibility as we may, for example, need to use specific sports premises for certain operations in relation to our work in combatting COVID-19.

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<sup>1</sup> Swimming pools that serve no more than 20 residential units and to which the public have no access.

Cap. 599G

***(e) Prevention and Control of Disease (Prohibition on Group Gathering) (Amendment) (No. 8) Regulation 2020 and Prevention and Control of Disease (Prohibition on Group Gathering) (Amendment) (No. 9) Regulation 2020***

***(A) Extending the Expiry Date***

26. Cap. 599G was introduced in March 2020 to allow us to prohibit group gatherings exceeding a certain size in public places and such measure has been an essential part of our social distancing measures. The expiry date of Cap. 599G before the amendment was 31 August 2020. As we expect that social distancing measures, to varying degree, would still be required in the medium term, we have extended the validity of Cap.599G for a longer period, for it to expire at midnight on 31 December 2020.

***(B) Reducing the Number of Persons Allowed in a Group Gathering***

27. Having regard to the large-scale outbreak of local cases in late July 2020, we further tightened our social distancing measures to a more stringent level. Specifically, under Cap. 599G, we reduced the number of persons allowed in a group gathering in a public place from four to two, i.e. the tightest restriction since Cap. 599G was introduced, but with the same exemptions such as gathering by persons in the same household or for seeking medical treatment. This provided a clear signal to the public that we needed to be extremely vigilant and avoid any form of social gathering, in particular that in a public place, in light of the development of the epidemic situation then.

***(f) Prevention and Control of Disease (Wearing of Mask) (Public Transport) (Amendment) Regulation 2020 and Prevention and Control of Disease (Wearing of Mask) (Amendment) Regulation 2020***

***(A) Expanding the Masking Requirement***

28. Taking into account that large number of local confirmed cases likely to have acquired the virus in confined settings such as markets and shopping centres in July 2020, there was a need to ensure the wearing of masks in public places. We therefore expanded the scope of Cap. 599I to empower SFH to specify any or all public places, or a category or description of public

places, for the purpose of the compulsory mask-wearing requirement for a specified period of time which must not be longer than 14 days.

29. Similar to the provisions under Cap. 599I before the amendments, exemptions have been provided, including where a person has a reasonable excuse for not to wear a mask, e.g. having regard to circumstances under which it may not be practicable for the person to comply with the masking requirement or it is reasonably necessary for the person not to wear a mask in the circumstances. Children under the age of 2 have also been exempted.

*(B) Expanding the Scope of Reasonable Excuses*

30. While we encouraged people to stay home and maintain social distance since mid-July 2020 to contain the spread of COVID-19 with a view to bringing an end to the third wave, by mid-August 2020, there were genuine needs for members of public to exercise, which was important to their health and wellbeing and, in particular, can stay positive in the face of the drastic changes in people's social life during the current outbreak. As engaging in strenuous physical activity/exercise was not explicitly recognised under the Cap. 599I then as a reasonable excuse for not to wear a mask, many members of the public shied away from exercising as they found it prohibitively uncomfortable to engage in physical exercise while wearing a mask, particularly under the summer heat. This ran contrary to the Government's policy to promote a healthy lifestyle.

31. According to the World Health Organization ("WHO"), people should not wear masks when exercising, as masks may reduce the ability to breathe comfortably. Sweat can make the mask become wet more quickly which makes it difficult to breathe and promotes the growth of microorganisms. The key preventive measure during exercise is to maintain physical distance of at least 1.5 metres from others if masks are not worn.

32. In this connection, we amended Cap. 599I to expressly provide that it is a reasonable excuse for a person not to wear a mask if "the person is engaged in any physical activity (including exercise) that may reasonably be regarded as strenuous for him or her, in a place that is not indoor". The formulation allows the individual attributes of the person concerned, e.g. age, health conditions, to be taken into account in determining the kind of physical activity that would amount to the reasonable excuse, while maintaining an essentially objective standard by requiring the physical activity to be reasonably regarded as strenuous for the person concerned.

Only engaging in such physical activity in an outdoor setting is covered as, given the confined environment and the lack of ventilation in many indoor places, the infection risks for people, say exercising in indoor places without wearing masks, are substantially higher than those in outdoor places. Depending on the actual circumstances, people engaged in manual labour in outdoor places may also rely on the said reasonable excuse for not wearing a mask. This would encourage and allow people to engage in physical activities outdoors while minimising the risks involved to a reasonable level.

### **OTHER OPTIONS**

33. Section 8 of the Ordinance is the specific empowering provision to make regulations on the present occasion of a public health emergency and there is no other appropriate option that may enable the implementation of the measures set out in paragraph 1.

### **THE AMENDMENT REGULATIONS**

34. The main provisions of the amendment regulations are set out in paragraph 1.

## LEGISLATIVE TIMETABLES

35. The legislative timetables are as follows –

*Compulsory Quarantine of Certain Persons Arriving at Hong Kong (Amendment) (No. 5) Regulation 2020*

*Prevention and Control of Disease (Disclosure of Information) (Amendment) (No. 2) Regulation 2020*

*Compulsory Quarantine of Persons Arriving at Hong Kong from Foreign Places (Amendment) (No. 3) Regulation 2020*

*Prevention and Control of Disease (Requirements and Directions) (Business and Premises) (Amendment) (No. 4) Regulation 2020*

*Prevention and Control of Disease (Prohibition on Group Gathering) (Amendment) (No. 8) Regulation 2020*

*Prevention and Control of Disease (Wearing of Mask) (Public Transport) (Amendment) Regulation 2020*

Publication in the Gazette	22 July 2020
Commencement	23 July 2020
Tabling at the Legislative Council	14 October 2020

*Prevention and Control of Disease (Requirements and Directions) (Business and Premises) (Amendment) (No. 5) Regulation 2020*

*Prevention and Control of Disease (Prohibition on Group Gathering) (Amendment) (No. 9) Regulation 2020*

Publication in the Gazette	27 July 2020
Commencement	29 July 2020
Tabling at the Legislative Council	14 October 2020

***Compulsory Quarantine of Certain Persons Arriving at Hong Kong (Amendment) (No. 6) Regulation 2020***

***Prevention and Control of Disease (Disclosure of Information) (Amendment) (No. 3) Regulation 2020***

Publication in the Gazette	21 August 2020
Commencement	22 August 2020
Tabling at the Legislative Council	14 October 2020

***The Prevention and Control of Disease (Wearing of Mask) (Amendment) Regulation 2020***

Publication in the Gazette	25 August 2020
Commencement	28 August 2020
Tabling at the Legislative Council	14 October 2020

**IMPLICATIONS OF THE PROPOSALS**

36. The proposals are in conformity with the Basic Law, including the provisions concerning human rights.

**PUBLIC CONSULTATION**

37. Given the exigency of the situation, public consultation was not feasible.

**PUBLICITY**

38. We announced the amendment regulations together with other measures to combat the epidemic situation at earlier press conferences and issued press releases on the latest measures. A spokesperson was also made available to respond to public or media enquiries.

## **BACKGROUND**

39. The COVID-19 pandemic has caused an unprecedented health challenge across the globe. The absence of an effective treatment or a vaccine combined with an exponential growth in infections have led many countries/ places to implement measures with far-reaching implications, including temporary border closures or stringent control measures, restrictions on non-essential travel, confinement and quarantine arrangements, with the objective of preventing the transmission of the disease from other places, and worse still, leading to a major community outbreak. For Hong Kong, the Government has been implementing measures under the two-pronged strategy to reduce population mobility in and out of Hong Kong including imposing quarantine requirements on arrivals as well as to enhance social distancing in the community.

40. According to WHO, COVID-19 has been characterised as pandemic and may become just another endemic virus in our communities and this virus may never go away. As it is unrealistic to aim for eradication or elimination of the virus in the near future, countries and regions need to keep adjusting the intensity of their infection control measures taking account of their respective social and economic needs. To this end, the Government has been closely monitoring the development of the epidemic situation and reviewing and adjusting the various measures in place from time to time while striking a balance among disease prevention and control, economic needs and level of acceptance of the society under the “suppress and lift” strategy.

### ***The Ordinance***

41. Section 8 of the Ordinance empowers the Chief Executive in Council to make regulations on an occasion of a public health emergency for the purposes of preventing, combating or alleviating the effects of the public health emergency and protecting public health. Among others, the occurrence of a novel infectious disease or the imminent threat of an epidemic that has a high probability of causing a large number of deaths or serious disabilities (whether or not long term) in the population constituted a public health emergency.



### ***Cap. 599C***

42. In light of the outbreak in the Mainland in early 2020, we introduced Cap. 599C in early February 2020 which mandates all persons having stayed in the Mainland for any period during the 14 days preceding arrival in Hong Kong, regardless of nationality and travel documents used, except for exempted persons, to be subject to compulsory quarantine for 14 days. We subsequently amended the regulation on several separate occasions to enhance its provisions by –

- (a) expanding the scope to cover returnees from the entire China (i.e. the Mainland, Macao and Taiwan);
- (b) expanding the scope of exempted persons as approved by CS;
- (c) introducing a 2-tier regime by empowering SFH to specify place(s) in China outside Hong Kong which would remain subject to the compulsory quarantine arrangement and place(s) in China outside Hong Kong which are excluded from the arrangement if certain specified conditions are met, having regard to the extent of the spread of the disease in that place and the public health risk posed to Hong Kong by persons arriving from that place or who have stayed in that place; and
- (d) extending the expiry date of the regulation.

### ***Cap. 599D***

43. Cap. 599D took effect on 8 February 2020 and empowers a health officer to require a person to give any information that the officer reasonably believes is within the knowledge, in the possession or under the control of the person and is relevant to the handling of the public health emergency. A person commits an offence if he/she fails to comply with such a requirement or knowingly gives a health officer any information that is false or misleading in a material particular. A person also commits an offence if he/she, when attended by a medical practitioner acting in the course of professional practice, knowingly gives the medical practitioner any false or misleading information in relation to the person that is relevant to the risk of exposure to or contracting the disease.

### ***Cap. 599E***

44. As part of the border control measures to combat the global outbreak of the COVID-19, we introduced Cap. 599E in mid-March 2020 by imposing compulsory quarantine orders on all persons arriving from all places outside China, unless exempted. In late-April 2020, we extended the expiry date of regulation to 18 September 2020 and introduced a 2-tier regime by empowering SFH to specify place(s) outside China which would remain subject to the compulsory quarantine arrangement and place(s) outside China which are excluded from the arrangement if certain specified conditions are met, having regard to the extent of the spread of the disease in that place.

### ***Cap. 599F and Cap. 599G***

45. We introduced Cap. 599F and Cap. 599G to impose social distancing measures in light of the outbreak situation in late March 2020.

46. Since 29 May 2020, catering business and the 12 types of scheduled premises under Cap. 599F can be open for business subject to certain restrictions and requirements. In light of the third wave of local outbreak, all scheduled premises were closed during the period 15 July - 28 August 2020. Since 28 August 2020, the Government, having regard to the fact that the epidemic has subsided from its peak in late July, has relaxed or adjusted the various social distancing measures under a refined and sophisticated approach in a gradual and orderly manner, so as to allow social and economic activities to resume as far as possible under the new normal. The measures include relaxing the restriction on the number of persons allowed in group gatherings in public places, extending the hours when dine-in services are allowed in catering premises and relaxing the number of persons allowed to be seated together at one table therein, reopening all catering business and scheduled premises, and allowing team sports at sports premises and public skating rinks.

47. Cap. 599G was introduced in end March 2020 to prohibit group gathering of more than four persons in a public place during any period of not exceeding 14 days specified by SFH by a notice published in the Gazette, except for a list of exempted group gatherings. CS may permit certain group gatherings. The number of persons allowed in a group gathering in a public

place was increased to eight persons in early May 2020 and to 50 persons in early June 2020 as part of the relaxation measures implemented in view of the stabilisation of the epidemic situation then. It was reduced to four again in mid-July 2020 due to the third wave of local outbreak.

### ***Cap. 599I***

48. Cap. 599I took effect on 15 July 2020 which empowers SFH to specify a period during which a person must wear a mask at all times when the person is boarding or on board a public transport carrier, or is entering or present in an MTR paid area.

### **ENQUIRIES**

49. For enquiries on this brief, please contact the Food and Health Bureau at 3509 8765.

**Food and Health Bureau  
October 2020**

**Compulsory Quarantine of Certain Persons Arriving at  
Hong Kong (Amendment) (No. 5) Regulation 2020**

(Made by the Chief Executive in Council under section 8 of the Prevention  
and Control of Disease Ordinance (Cap. 599))

**1. Commencement**

This Regulation comes into operation on 23 July 2020.

**2. Compulsory Quarantine of Certain Persons Arriving at Hong  
Kong Regulation amended**

The Compulsory Quarantine of Certain Persons Arriving at Hong  
Kong Regulation (Cap. 599 sub. leg. C) is amended as set out in  
section 3.

**3. Section 13 amended (expiry)**

Section 13—

**Repeal**

“August”

**Substitute**

“September”.

Clerk to the Executive Council

COUNCIL CHAMBER

2020

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**Explanatory Note**

This Regulation amends the Compulsory Quarantine of Certain Persons Arriving at Hong Kong Regulation (Cap. 599 sub. leg. C) to extend its expiry date from 7 August 2020 to 7 September 2020.

**Compulsory Quarantine of Certain Persons Arriving at  
Hong Kong (Amendment) (No. 6) Regulation 2020**

(Made by the Chief Executive in Council under section 8 of the Prevention  
and Control of Disease Ordinance (Cap. 599))

**1. Commencement**

This Regulation comes into operation on 22 August 2020.

**2. Compulsory Quarantine of Certain Persons Arriving at Hong  
Kong Regulation amended**

The Compulsory Quarantine of Certain Persons Arriving at Hong  
Kong Regulation (Cap. 599 sub. leg. C) is amended as set out in  
section 3.

**3. Section 13 amended (expiry)**

Section 13—

**Repeal**

“September”

**Substitute**

“October”.

Clerk to the Executive Council

COUNCIL CHAMBER

2020

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Compulsory Quarantine of Certain Persons Arriving at Hong Kong (Amendment)  
(No. 6) Regulation 2020

Explanatory Note  
Paragraph 1

3

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**Explanatory Note**

This Regulation amends the Compulsory Quarantine of Certain Persons Arriving at Hong Kong Regulation (Cap. 599 sub. leg. C) to extend its expiry date from 7 September 2020 to 7 October 2020.

**Prevention and Control of Disease (Disclosure of Information) (Amendment) (No. 2) Regulation 2020**

(Made by the Chief Executive in Council under section 8 of the Prevention and Control of Disease Ordinance (Cap. 599))

**1. Commencement**

This Regulation comes into operation on 23 July 2020.

**2. Prevention and Control of Disease (Disclosure of Information) Regulation amended**

The Prevention and Control of Disease (Disclosure of Information) Regulation (Cap. 599 sub. leg. D) is amended as set out in section 3.

**3. Section 5 amended (expiry)**

Section 5—

**Repeal**

“August”

**Substitute**

“December”.

Clerk to the Executive Council

COUNCIL CHAMBER

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### **Explanatory Note**

This Regulation amends the Prevention and Control of Disease (Disclosure of Information) Regulation (Cap. 599 sub. leg. D) to extend its expiry date from 31 August 2020 to 31 December 2020.

**Prevention and Control of Disease (Disclosure of Information) (Amendment) (No. 3) Regulation 2020**

(Made by the Chief Executive in Council under section 8 of the Prevention and Control of Disease Ordinance (Cap. 599))

**1. Commencement**

This Regulation comes into operation on 22 August 2020.

**2. Prevention and Control of Disease (Disclosure of Information) Regulation amended**

The Prevention and Control of Disease (Disclosure of Information) Regulation (Cap. 599 sub. leg. D) is amended as set out in sections 3, 4 and 5.

**3. Section 2 amended (interpretation)**

(1) Section 2, Chinese text, definition of 疾病—

**Repeal the full stop**

**Substitute a semicolon.**

(2) Section 2—

**Add in alphabetical order**

“*authorized officer* (獲授權人員) means an authorized officer appointed under section 4A(1);”.

**4. Section 3 amended (requirement to give information to health officer)**

(1) Section 3, heading, after “health officer”—

**Add**

“or authorized officer”.

(2) After section 3(1)—

**Add**

“(1A) An authorized officer may, for preventing and controlling the transmission of the disease, require a person to give any information that the authorized officer reasonably believes—

(a) is within the knowledge, in the possession or under the control of the person; and

(b) is relevant to the identification and tracing of any person who may have been exposed to the risk of contracting the disease.”.

(3) Section 3(2), after “subsection (1)”—

**Add**

“or (1A)”.

(4) Section 3(4), after “subsection (1)”—

**Add**

“or (1A)”.

(5) Section 3(4), after “health officer”—

**Add**

“or an authorized officer (as the case may be)”.

**5. Section 4A added**

After section 4—

**Add**

**“4A. Authorized officers**

(1) The Director may appoint any public officer as an authorized officer for the purposes of this Regulation.

- (2) No personal liability is incurred by an authorized officer or a person acting under the officer's direction in respect of any thing done or omitted to be done by the officer or person in good faith in the performance or purported performance of a function under this Regulation.”.

Clerk to the Executive Council

COUNCIL CHAMBER

2020

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### Explanatory Note

This Regulation amends the Prevention and Control of Disease (Disclosure of Information) Regulation (Cap. 599 sub. leg. D) (*principal Regulation*) to—

- (a) empower the Director of Health to appoint any public officer as an authorized officer (*authorized officer*) for the purposes of the principal Regulation;
- (b) provide that an authorized officer may require a person to give certain information; and
- (c) make it an offence for failing to give information required by an authorized officer, or giving to an authorized officer information that is false or misleading in a material particular.

**Compulsory Quarantine of Persons Arriving at Hong  
Kong from Foreign Places (Amendment) (No. 3)  
Regulation 2020**

(Made by the Chief Executive in Council under section 8 of the Prevention  
and Control of Disease Ordinance (Cap. 599))

**1. Commencement**

This Regulation comes into operation on 23 July 2020.

**2. Compulsory Quarantine of Persons Arriving at Hong Kong from  
Foreign Places Regulation amended**

The Compulsory Quarantine of Persons Arriving at Hong Kong from  
Foreign Places Regulation (Cap. 599 sub. leg. E) is amended as set  
out in section 3.

**3. Section 13 amended (expiry)**

Section 13—

**Repeal**

“18 September”

**Substitute**

“31 December”.

Clerk to the Executive Council

COUNCIL CHAMBER

2020

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Compulsory Quarantine of Persons Arriving at Hong Kong from Foreign Places  
(Amendment) (No. 3) Regulation 2020

Explanatory Note

Paragraph 1

3

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**Explanatory Note**

This Regulation amends the Compulsory Quarantine of Persons Arriving at Hong Kong from Foreign Places Regulation (Cap. 599 sub. leg. E) to extend its expiry date from 18 September 2020 to 31 December 2020.

**Prevention and Control of Disease (Requirements and Directions) (Business and Premises) (Amendment) (No. 4) Regulation 2020**

(Made by the Chief Executive in Council under section 8 of the Prevention and Control of Disease Ordinance (Cap. 599))

**1. Commencement**

This Regulation comes into operation on 23 July 2020.

**2. Prevention and Control of Disease (Requirements and Directions) (Business and Premises) Regulation amended**

The Prevention and Control of Disease (Requirements and Directions) (Business and Premises) Regulation (Cap. 599 sub. leg. F) is amended as set out in section 3.

**3. Section 14 amended (expiry)**

Section 14—

**Repeal**

“August”

**Substitute**

“December”.

Clerk to the Executive Council

COUNCIL CHAMBER

2020

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### **Explanatory Note**

This Regulation amends the Prevention and Control of Disease (Requirements and Directions) (Business and Premises) Regulation (Cap. 599 sub. leg. F) to extend its expiry date from 31 August 2020 to 31 December 2020.

**Prevention and Control of Disease (Requirements and Directions) (Business and Premises) (Amendment) (No. 5) Regulation 2020**

(Made by the Chief Executive in Council under section 8 of the Prevention and Control of Disease Ordinance (Cap. 599))

**1. Commencement**

This Regulation comes into operation on 29 July 2020.

**2. Prevention and Control of Disease (Requirements and Directions) (Business and Premises) Regulation amended**

The Prevention and Control of Disease (Requirements and Directions) (Business and Premises) Regulation (Cap. 599 sub. leg. F) is amended as set out in sections 3 to 9.

**3. Section 3 amended (requirement to cease selling food or drink etc. during specified period)**

(1) Section 3(3)(b) and (c)—

**Repeal**

“5(1)”

**Substitute**

“7A(1)”.

(2) Section 3—

**Repeal subsection (5)**

**Substitute**

“(5) For the purposes of subsection (1), an area is to be regarded as part of the premises of a catering business if—

- (a) seating or tables are made available (whether or not by the business) in the area for customers of the business; and
- (b) the area—
  - (i) is adjacent to the premises of the business; or
  - (ii) forms part of any premises within which the premises of the business are situated.

(5A) If subsection (1) imposes a requirement on a person (*responsible person*) in relation to the premises of a catering business, and an area is regarded under subsection (5) as part of those premises, then subsection (1) is to be construed as also imposing the same requirement, in relation to that area, on the following person (*provider*) as if the provider were the responsible person—

- (a) for subsection (5)(b)(i)—a person by whom the seating or tables are made available in that area;
- (b) for subsection (5)(b)(ii)—a manager of the premises of which that area forms part.”.

(3) Section 3(6), after “(1)”—

**Add**

“or (5A)”.

**4. Section 5 repealed (Chief Secretary for Administration may designate certain catering business for section 3)**

Section 5—

**Repeal the section.**



5. **Section 6 amended (directions of Secretary in relation to catering business)**

After section 6(1)—

**Add**

“(1A) A direction issued under subsection (1) does not apply to—

- (a) a catering business designated under section 7A(1); or
- (b) a catering business falling within a category of catering businesses designated under section 7A(1).”.

6. **Section 7A added**

Part 2, after section 7—

**Add**

“7A. **Chief Secretary for Administration may designate certain catering businesses for sections 3 and 6**

- (1) The Chief Secretary for Administration (*Chief Secretary*) may designate any catering business or category of catering businesses for the purposes of section 3(3)(b) or (c) or 6(1A)(a) or (b) if satisfied that the designation—
  - (a) is necessary for governmental operation; or
  - (b) because of the exceptional circumstances of the case, otherwise serves the public interest of Hong Kong.
- (2) The Chief Secretary may, if considered necessary, attach conditions to a designation.

- (3) The Chief Secretary may cancel a designation or vary a condition attached to a designation.
- (4) A designation, attachment of conditions, cancellation or variation under this section must be made in writing.”.

7. **Section 8 amended (directions of Secretary in relation to scheduled premises)**

After section 8(1)—

**Add**

“(1A) A direction issued under subsection (1) does not apply to—

- (a) any scheduled premises designated under section 9A(1); or
- (b) any scheduled premises falling within a category of scheduled premises designated under section 9A(1).”.

8. **Section 9A added**

Part 3, after section 9—

**Add**

“9A. **Chief Secretary for Administration may designate certain scheduled premises for section 8**

- (1) The Chief Secretary for Administration (*Chief Secretary*) may designate any scheduled premises or category of scheduled premises for the purposes of section 8(1A)(a) or (b) if satisfied that the designation—
  - (a) is necessary for governmental operation; or

(b) because of the exceptional circumstances of the case, otherwise serves the public interest of Hong Kong.

- (2) The Chief Secretary may, if considered necessary, attach conditions to a designation.
- (3) The Chief Secretary may cancel a designation or vary a condition attached to a designation.
- (4) A designation, attachment of conditions, cancellation or variation under this section must be made in writing.”.

**9. Schedule 2 amended (scheduled premises)**

- (1) Schedule 2, Part 1, after item 12—

**Add**

“13. Sports premises

14. Swimming pool”.

- (2) Schedule 2, English text, Part 2, section 1, definition of *place of public entertainment*—

**Repeal**

“(Cap. 172).”

**Substitute**

“(Cap. 172);”.

- (3) Schedule 2, Chinese text, Part 2, section 1, definition of *遊戲機中心*, paragraph (c)—

**Repeal the full stop**

**Substitute a semicolon.**

- (4) Schedule 2, Part 2, section 1—

**Add in alphabetical order**

**“sports premises (體育處所)—**

- (a) means any premises (other than a fitness centre, a place of amusement and a swimming pool) designed for indoor or outdoor sporting activities (whether on land or not)—
  - (i) to which the public have access (whether on payment or otherwise); or
  - (ii) that are operated by any club, institution, association or other organization; and
- (b) includes the following land and structures within the premises—
  - (i) any pitch;
  - (ii) any running track;
  - (iii) any sidewalk immediately adjacent to the pitch or running track; and
  - (iv) any spectator stand;

**swimming pool (泳池)—**

- (a) means any artificially constructed pool used for swimming or bathing (other than a pool specifically designed for use for hydrotherapy or other treatment purpose and a bathhouse)—
  - (i) to which the public have access (whether on payment or otherwise); or
  - (ii) that is operated by any club, institution, association or other organization; and
- (b) includes—
  - (i) any sidewalk immediately adjacent to the pool;
  - (ii) any facility adjoining the pool; and

- (iii) any spectator stand of the pool.”.

Clerk to the Executive Council

COUNCIL CHAMBER

2020

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### Explanatory Note

This Regulation amends the Prevention and Control of Disease (Requirements and Directions) (Business and Premises) Regulation (Cap. 599 sub. leg. F) (*principal Regulation*) to—

- (a) provide that if seating or tables are made available for customers of a catering business in an area adjacent to the premises of the business or in an area that forms part of any premises (*relevant premises*) within which the premises of the business are situated—
  - (i) the area is to be regarded as part of the premises of the business; and
  - (ii) the person providing those seating or tables or a manager of the relevant premises must comply with a requirement imposed under section 3(1) of the principal Regulation in relation to the premises of the business;
- (b) empower the Chief Secretary for Administration to exempt—
  - (i) any catering business or category of catering businesses from the application of section 6(1) of the principal Regulation; and
  - (ii) any scheduled premises or category of scheduled premises from the application of section 8(1) of the principal Regulation; and
- (c) add the following premises to Part 1 of Schedule 2 to the principal Regulation—
  - (i) sports premises; and
  - (ii) swimming pool.

**Prevention and Control of Disease (Prohibition on  
Group Gathering) (Amendment) (No. 8) Regulation  
2020**

(Made by the Chief Executive in Council under section 8 of the Prevention  
and Control of Disease Ordinance (Cap. 599))

**1. Commencement**

This Regulation comes into operation on 23 July 2020.

**2. Prevention and Control of Disease (Prohibition on Group  
Gathering) Regulation amended**

The Prevention and Control of Disease (Prohibition on Group  
Gathering) Regulation (Cap. 599 sub. leg. G) is amended as set out  
in section 3.

**3. Section 16 amended (expiry)**

Section 16—

**Repeal**

“August”

**Substitute**

“December”.

Clerk to the Executive Council

COUNCIL CHAMBER

2020

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**Explanatory Note**

This Regulation amends the Prevention and Control of Disease (Prohibition on Group Gathering) Regulation (Cap. 599 sub. leg. G) to extend its expiry date from 31 August 2020 to 31 December 2020.

**Prevention and Control of Disease (Prohibition on  
Group Gathering) (Amendment) (No. 9) Regulation  
2020**

(Made by the Chief Executive in Council under section 8 of the Prevention  
and Control of Disease Ordinance (Cap. 599))

Clerk to the Executive Council

**1. Commencement**

This Regulation comes into operation on 29 July 2020.

COUNCIL CHAMBER

2020

**2. Prevention and Control of Disease (Prohibition on Group  
Gathering) Regulation amended**

The Prevention and Control of Disease (Prohibition on Group  
Gathering) Regulation (Cap. 599 sub. leg. G) is amended as set out  
in sections 3 and 4.

**3. Section 2 amended (interpretation)**

Section 2, definition of *group gathering*—

**Repeal**

“4”

**Substitute**

“2”.

**4. Section 10 amended (power to disperse prohibited group  
gathering etc.)**

Section 10(2)—

**Repeal**

“and the total number of participants of the gatherings is more  
than 4,”.

### **Explanatory Note**

This Regulation amends the Prevention and Control of Disease (Prohibition on Group Gathering) Regulation (Cap. 599 sub. leg. G) (*principal Regulation*) to—

- (a) tighten the number of persons constituting a “group gathering” prohibited under the principal Regulation from more than 4 to more than 2; and
- (b) in view of the tightening of the number, amend the provision in the principal Regulation on gatherings that may be dispersed, so that if the distance between any 2 gatherings in a public place is less than 1.5 m, both gatherings may be dispersed.

**Prevention and Control of Disease (Wearing of Mask)  
(Public Transport) (Amendment) Regulation 2020**

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## Prevention and Control of Disease (Wearing of Mask) (Public Transport) (Amendment) Regulation 2020

(Made by the Chief Executive in Council under section 8 of the Prevention and Control of Disease Ordinance (Cap. 599))

### 1. Commencement

This Regulation comes into operation on 23 July 2020.

### 2. Prevention and Control of Disease (Wearing of Mask) (Public Transport) Regulation amended

The Prevention and Control of Disease (Wearing of Mask) (Public Transport) Regulation (Cap. 599 sub. leg. I) is amended as set out in sections 3 to 12.

### 3. Title amended

The title—

#### Repeal

“(Public Transport)”.

### 4. Section 2 amended (interpretation)

(1) Section 2(1), definition of *public transport carrier*—

#### Repeal

“the Schedule”

#### Substitute

“Schedule 1”.

(2) Section 2(1), definition of *specified period*—

#### Repeal

everything after “means”

#### Substitute

“—

(a) in section 4(1)—a period specified under section 3(1)(b); or

(b) in section 5A(1)—a period specified under section 3(1)(c);”.

(3) Section 2(1), Chinese text, definition of ~~港鐵已付車費區域~~—

#### Repeal the full stop

#### Substitute a semicolon.

(4) Section 2(1)—

#### Add in alphabetical order

“*authorized public officer* (獲授權公職人員) means a public officer appointed under section 6D(1);

*fixed penalty* (定額罰款) means the fixed penalty under section 6A(1);

*public place* (公眾地方)—

(a) means any place to which for the time being the public or a section of the public may or are permitted to have access, whether on payment or otherwise; but

(b) does not include a public transport carrier or an MTR paid area;

*specified public place* (指明公眾地方) means a public place, or a public place that is of a category or description, specified under section 3(1)(a).”.

5. **Section 3 amended (period specified by Secretary for Food and Health)**

(1) Section 3, heading—

**Repeal**

“Period specified”

**Substitute**

“Specification”.

(2) Section 3(1)—

**Repeal**

everything after “published in the”

**Substitute**

“Gazette—

(a) specify any or all public places, or a category or description of public places, for the purposes of this Regulation;

(b) specify a period for the purposes of section 4(1); and

(c) specify a period for the purposes of section 5A(1).”.

(3) Section 3(2)—

**Repeal**

“subsection (1)”

**Substitute**

“subsection (1)(b) or (c)”.

6. **Section 4 amended (requirement to wear mask in public transport carrier and MTR paid area during specified period)**

(1) Section 4(3)(e), Chinese text—

**Repeal subparagraph (ii)**

**Substitute**

“(ii) 用藥；”.

(2) Section 4(3)(e)(iii)—

**Repeal**

“or”.

(3) Section 4(3)(f)—

**Repeal**

“wearing.”

**Substitute**

“wearing; or”.

(4) After section 4(3)(f)—

**Add**

“(g) it is reasonably necessary for the person not to wear a mask for such verification of the person’s identity as is reasonably necessary for business purposes.”.

7. **Section 5 heading amended (powers exercisable if mask not worn)**

Section 5, heading, after “worn”—

**Add**

“in public transport carrier and MTR paid area”.

8. **Sections 5A and 5B added**

After section 5—

**Add**

**“5A. Requirement to wear mask in specified public place during specified period**

- (1) During a specified period, a person must wear a mask at all times when the person is entering or present in a specified public place.
- (2) However, subsection (1) does not apply to—
  - (a) a person who is under the age of 2;
  - (b) a person who has lawful authority or reasonable excuse for not wearing a mask; and
  - (c) a person participating in proceedings in any court, statutory tribunal or statutory board who is directed or permitted by the court, tribunal or board not to wear a mask.
- (3) Without limiting the scope of the reasonable excuse referred to in subsection (2)(b), a person has a reasonable excuse for not wearing a mask if—
  - (a) the person cannot put on, wear or remove a mask—
    - (i) because of any physical or mental illness, impairment or disability; or
    - (ii) without severe distress;
  - (b) the person is accompanying, or providing assistance to, another person who relies on lip reading to communicate with the person;
  - (c) it is reasonably necessary for the person not to wear a mask in order to avoid any physical harm to the person or others;
  - (d) it is reasonably necessary for the person to enter or be present in the specified public place in order to

avoid any physical harm to the person but the person does not have a mask;

- (e) the person is not wearing a mask in order to do any of the following acts (only if the act is lawful in the circumstances)—
  - (i) eat or drink;
  - (ii) take medication;
  - (iii) maintain personal hygiene;
- (f) the person is required by a public officer (who is performing a function of the officer) to remove a mask the person is otherwise wearing;
- (g) it is reasonably necessary for the person not to wear a mask for such verification of the person’s identity as is reasonably necessary for business purposes;
- (h) the person—
  - (i) is entering or present on premises in relation to which a relevant Cap. 599F direction is in force; and
  - (ii) is not wearing a mask in circumstances permitted under the direction;
- (i) the person is carrying out, in the course of employment, an activity that reasonably requires that no mask may be worn, or that it must be removed in order that other equipment may be worn or used, to carry out that activity; or
- (j) the person is undergoing a procedure that reasonably requires that no mask may be worn during its administration, such as dental treatment or a personal appearance service (except hairdressing) concerning any part of the face.

- (4) If a person is entering or present on premises in relation to which a relevant Cap. 599F direction is in force, and in breach of the direction the person does not wear a mask in order to eat or drink on the premises, then despite subsection (3)(e)(i), eating or drinking is not regarded as a reasonable excuse for the purposes of subsection (2)(b).
- (5) In this section—  
*relevant Cap. 599F direction* (相關《第 599F 章》指示) means a direction issued under section 6 or 8 of the Prevention and Control of Disease (Requirements and Directions) (Business and Premises) Regulation (Cap. 599 sub. leg. F).

**5B. Powers exercisable if mask not worn in specified public place**

- (1) If an authorized person reasonably considers that another person (*that person*) is, in contravention of section 5A(1), not wearing a mask, the authorized person may—
- (a) if that person is entering a specified public place or a part of it—deny entry to that place or part to that person; or
- (b) if that person is present in a specified public place or a part of it—
- (i) require that person to wear a mask; and
- (ii) if that person fails to comply with the requirement made under subparagraph (i)—require that person to leave that place or part.
- (2) An authorized person may exercise a power under subsection (1)(b) only if the authorized person reasonably considers it necessary and proportionate to ensure compliance with section 5A(1).

- (3) A person is not entitled to a refund of, or to deny the liability to pay, any money paid or charged for entry to a specified public place, or a part of it, only because the person is, under subsection (1)(b), required to leave that place or part.
- (4) In this section—  
*authorized person* (獲授權人士), in relation to a specified public place or a part of it, means—
- (a) a police officer;
- (b) an authorized public officer;
- (c) the manager or owner of that place or part; or
- (d) a person authorized by that manager or owner;
- manager* (管理人), in relation to a specified public place or a part of it, means a person who is responsible for the management or is in charge or control of that place or part.”.

**9. Section 6 amended (offences)**

- (1) Section 6(1), after “section 4(1)”—  
**Add**  
“or 5A(1)”.
- (2) Section 6(2), after “section 5(1)(b)(ii)”—  
**Add**  
“or 5B(1)(b)(ii)”.
- (3) After section 6(2)—  
**Add**  
“(3) In criminal proceedings for an offence under subsection (1) or (2)—

- (a) the burden of establishing that a person has lawful authority or reasonable excuse referred to in section 4(2)(b) or 5A(2)(b) or in subsection (2) lies on the person; and
- (b) the person is taken to have established the lawful authority or reasonable excuse if—
  - (i) there is sufficient evidence to raise an issue with respect to the lawful authority or reasonable excuse; and
  - (ii) the contrary is not proved by the prosecution beyond reasonable doubt.”.

**10. Sections 6A to 6E added**

After section 6—

**Add**

**“6A. Fixed penalty in discharge of liability under section 6(1)**

- (1) If a person commits an offence under section 6(1), the person may, in accordance with Schedule 2, discharge liability for the offence by paying a fixed penalty of \$2,000.
- (2) Schedule 2 provides for matters relating to the fixed penalty.

**6B. Power to demand personal details and inspect proof of identity**

- (1) This section applies if an authorized public officer has reason to believe that a person is committing or has committed an offence under section 6.

- (2) The authorized public officer may, for issuing or serving a summons or other document in relation to the offence, require the person to—
  - (a) supply the person’s name, date of birth, address and contact telephone number (if any); and
  - (b) produce for inspection the person’s proof of identity.
- (3) A person who, without reasonable excuse, fails to comply with a requirement made under subsection (2) commits an offence and is liable on conviction to a fine at level 3.
- (4) A person who, in purported compliance with a requirement made under subsection (2), supplies any information that the person knows to be false or misleading commits an offence and is liable on conviction to a fine at level 3.
- (5) In this section—  
*proof of identity* (身分證明文件) has the same meaning as in section 17B of the Immigration Ordinance (Cap. 115).

**6C. Obstruction of authorized public officer etc. prohibited**

- (1) A person must not delay, obstruct, hinder or molest an authorized public officer who is performing a function under this Regulation.
- (2) A person must comply with a requirement made by an authorized public officer in the performance of a function under this Regulation.
- (3) A person who, without reasonable excuse, contravenes subsection (1) or (2) commits an offence and is liable on conviction to a fine at level 3.

**6D. Authorized public officers**

- (1) The Director may appoint any public officer as an authorized public officer for the purposes of this Regulation.
- (2) No personal liability is incurred by an authorized public officer or a person acting under the officer's direction in respect of any thing done or omitted to be done by the officer or person in good faith in the performance or purported performance of a function under this Regulation.

**6E. Notices and certificates**

The Director may specify the form of any notice or certificate for the purposes of this Regulation.”.

**11. Schedule renumbered (public transport carriers)**

The Schedule—

**Renumber the Schedule as Schedule 1.**

**12. Schedule 2 added**

After Schedule 1—

**Add**

**“Schedule 2**

[s. 6A]

**Fixed Penalty**

**Part 1**

**Interpretation**

**1. Interpretation**

In this Schedule—

*Authority* (當局) means—

- (a) the Director;
- (b) the Commissioner of Police;
- (c) the Director of Agriculture, Fisheries and Conservation;
- (d) the Director of Food and Environmental Hygiene;
- (e) the Director of Home Affairs;
- (f) the Director of Housing; or
- (g) the Director of Leisure and Cultural Services;

*demand notice* (繳款通知書) means a demand notice served under section 4(2) of this Schedule;

*penalty notice* (罰款通知書) means a penalty notice given under section 2(2) of this Schedule;

*recovery order* (追討令) means an order made under section 7(2) of this Schedule;

*specified form* (指明格式) means a form specified under section 6E.

## Part 2

### Penalty Notice and Demand Notice

#### 2. Authorized public officer may give penalty notice

- (1) This section applies if an authorized public officer has reason to believe that a person is committing or has committed an offence under section 6(1).
- (2) The authorized public officer may give the person a penalty notice in the specified form offering the person an opportunity to discharge the person's liability for the offence by paying the fixed penalty within 21 days after the date on which the notice is given.
- (3) A penalty notice must be given by the authorized public officer personally to the person.

#### 3. No prosecution or conviction if compliance with penalty notice

- (1) This section applies to a person who has been given a penalty notice in respect of an offence under section 6(1).
- (2) Subject to section 6 of this Schedule, the person is not liable to be prosecuted or convicted for the offence if the person has paid the fixed penalty within 21 days after the date on which the penalty notice is given.

#### 4. Authority may serve demand notice in case of failure to pay fixed penalty etc.

- (1) This section applies if—
  - (a) a person—

- (i) has been given a penalty notice in respect of an offence under section 6(1); and
    - (ii) fails to pay the fixed penalty within 21 days after the date on which the notice is given; or
  - (b) a person refuses to accept a penalty notice intended to be given to the person in respect of the offence.
- (2) The Authority may serve on the person a demand notice in the specified form—
    - (a) demanding payment of the fixed penalty;
    - (b) informing the person that the person must notify the Authority in writing if the person wishes to dispute liability for the offence; and
    - (c) stating that the payment or notification must be made within 10 days after the date on which the demand notice is served.
  - (3) A demand notice may not be served later than—
    - (a) if subsection (1)(a) applies—6 months after the date on which the penalty notice is given; or
    - (b) if subsection (1)(b) applies—6 months after the date on which the person refuses to accept the penalty notice.
  - (4) A demand notice may be served by sending it by post to the person's address.
  - (5) A certificate of posting in the specified form purporting to be signed by or for the Authority is admissible in evidence in any proceedings under this Regulation.
  - (6) Unless there is evidence to the contrary, it is presumed that—

- (a) the certificate was signed by or for the Authority; and
- (b) the demand notice to which the certificate relates was duly served.

**5. No prosecution or conviction if compliance with demand notice**

- (1) This section applies to a person on whom a demand notice has been served in respect of an offence under section 6(1).
- (2) Subject to section 6 of this Schedule, the person is not liable to be prosecuted or convicted for the offence if the person has paid the fixed penalty within 10 days after the date on which the demand notice is served.

**6. Withdrawal of penalty notice or demand notice**

- (1) The Authority may withdraw a penalty notice given, or a demand notice served, in respect of an offence under section 6(1)—
  - (a) at any time before a recovery order is made; or
  - (b) at any time before any proceedings for the offence commence.
- (2) If a penalty notice or demand notice is withdrawn—
  - (a) the Authority must serve notice of the withdrawal on the person to whom, or on whom, the penalty notice or demand notice has been given or served; and
  - (b) on application by the person, the Authority must refund, through the Director of Accounting Services, any amount paid for the fixed penalty.

- (3) If a penalty notice or demand notice is withdrawn, proceedings for the offence may only be commenced where—
  - (a) the ground, or one of the grounds, on which the notice is withdrawn is that it contains incorrect information; and
  - (b) the incorrect information was supplied by the person to whom, or on whom, the notice was given or served.

**Part 3**

**Recovery of Fixed Penalty**

**7. Recovery of fixed penalty**

- (1) This section applies if a person on whom a demand notice has been served—
  - (a) fails to pay the fixed penalty in accordance with the notice; and
  - (b) fails to notify the Authority in accordance with the notice that the person wishes to dispute liability for the offence.
- (2) On application made in the name of the Secretary for Justice and production of the documents specified in subsection (3), a magistrate must order the person to pay, within 14 days after the date of service of notice of the order—
  - (a) the fixed penalty;
  - (b) an additional penalty equal to the amount of the fixed penalty; and



- (c) \$300 by way of costs.
- (3) The documents are—
  - (a) a copy of the demand notice;
  - (b) a certificate of posting relating to the demand notice under section 4(5) of this Schedule; and
  - (c) a certificate under section 8 of this Schedule.
- (4) A magistrate must cause notice of a recovery order to be served on the person against whom it is made and it may be served by sending it by post to the person's address.
- (5) An application may be made in the absence of the person and the Secretary for Justice may appoint a person or class of persons to make an application.

**8. Evidentiary certificate**

- (1) A certificate in the specified form stating the matters in subsection (2) and purporting to be signed by or for the Authority is admissible in evidence in any proceedings under this Regulation.
- (2) The matters are—
  - (a) that the person specified in the certificate had not, before the date of the certificate, paid the fixed penalty;
  - (b) that the person specified in the certificate had not, before the date of the certificate, notified the Authority that the person wished to dispute liability for the offence; and
  - (c) that the address specified in the certificate was, on the date specified in the certificate in relation to the address, the person's address.

- (3) Unless there is evidence to the contrary—
  - (a) it is presumed that the certificate was signed by or for the Authority; and
  - (b) the certificate is evidence of the facts stated in it.

**9. Consequences of compliance with recovery order or failure to do so**

- (1) This section applies to a person against whom a recovery order is made.
- (2) If the person has complied with the recovery order, the person is not liable to be prosecuted or convicted for the offence to which the order relates.
- (3) If the person fails to comply with the recovery order, the person—
  - (a) is to be regarded, for the purposes of section 68 of the Magistrates Ordinance (Cap. 227), as having failed to pay the sum adjudged to be paid by a conviction; and
  - (b) is liable to be imprisoned under that section.

**10. Application for review of recovery order**

- (1) A person against whom a recovery order is made may apply to a magistrate for review of the order.
- (2) An application must be made within 14 days after the date on which the recovery order first came to the personal notice of the applicant.
- (3) The applicant must give reasonable notice of the application to the Authority.
- (4) An application may be made in person or by counsel or solicitor.

- (5) For securing the attendance of witnesses and generally for conducting the proceedings, the magistrate has all the powers of a magistrate hearing a complaint under the Magistrates Ordinance (Cap. 227).

**11. Outcome of review**

- (1) On application under section 10 of this Schedule, a magistrate may rescind a recovery order if satisfied that the demand notice did not come to the personal notice of the applicant without any fault of the applicant.
- (2) If the magistrate rescinds a recovery order, and the applicant wishes to dispute liability for the offence to which the order relates, the magistrate must give leave to that effect.
- (3) If the magistrate rescinds a recovery order, and the applicant does not wish to dispute liability for the offence to which the order relates, the magistrate—
- (a) must order the applicant to pay the fixed penalty within 10 days after the date of an order made under this paragraph; and
  - (b) must order that, if the applicant fails to pay the fixed penalty within that period, the applicant must immediately pay—
    - (i) the fixed penalty;
    - (ii) an additional penalty equal to the amount of the fixed penalty; and
    - (iii) \$300 by way of costs.
- (4) Despite section 26 of the Magistrates Ordinance (Cap. 227), if a magistrate gives leave under subsection (2),

proceedings may be commenced within 6 months after the date on which the magistrate gives the leave.

- (5) If the applicant fails to comply with the order under subsection (3)(b), the applicant—
- (a) is to be regarded, for the purposes of section 68 of the Magistrates Ordinance (Cap. 227), as having failed to pay the sum adjudged to be paid by a conviction; and
  - (b) is liable to be imprisoned under that section.
- (6) If the applicant has complied with the order under subsection (3)(a) or (b), the applicant is not liable to be prosecuted or convicted for the offence to which the order relates.

**Part 4**

**Proceedings if Person Disputes Liability**

**12. Dispute of liability for offence**

- (1) This section applies if—
- (a) a person has notified the Authority in accordance with a demand notice that the person wishes to dispute liability for an offence under section 6(1); or
  - (b) a person has been given leave under section 11(2) of this Schedule to dispute liability for an offence under section 6(1).
- (2) A summons issued in any proceedings against the person for the offence may be served on the person in accordance with section 8 of the Magistrates Ordinance (Cap. 227).
- (3) If—

- (a) in consequence of the notification or leave, the person appears in any proceedings in answer to a summons; and
  - (b) the person is convicted of the offence after having offered no defence or a defence that is frivolous or vexatious,
- the magistrate before whom the proceedings are heard must, in addition to any other penalty and costs, impose an additional penalty equal to the amount of the fixed penalty.
- (4) Any proceedings commenced against a person falling within subsection (1)(a) must terminate if the person pays in accordance with subsection (5)—
    - (a) the fixed penalty;
    - (b) an additional penalty equal to the amount of the fixed penalty; and
    - (c) \$500 by way of costs.
  - (5) Payment under subsection (4) must be made at any magistrates' court not less than 2 days before the day specified in the summons for the person's appearance, and the summons must be produced at the time of the payment.
  - (6) Neither a Saturday nor a public holiday may be included in the computation of the 2 days' period mentioned in subsection (5).

## Part 5

### General Provisions for Proceedings

#### 13. Power to rescind order on application by Authority

At any time, a magistrate may for good cause, on application by the Authority, rescind—

- (a) an order for the payment of the fixed penalty; and
- (b) any other order made under this Schedule in the same proceedings.”.

Clerk to the Executive Council

COUNCIL CHAMBER

2020

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### Explanatory Note

This Regulation amends the Prevention and Control of Disease (Wearing of Mask) (Public Transport) Regulation (Cap. 599 sub. leg. 1) (*principal Regulation*) to—

- (a) amend the title of the principal Regulation to “Prevention and Control of Disease (Wearing of Mask) Regulation”;
- (b) require a person (aged 2 or above) to wear a mask at all times in any public place specified by the Secretary for Food and Health (*specified public place*) during any period specified by the Secretary, unless the person is exempted (including if the person has lawful authority or reasonable excuse for not wearing a mask);
- (c) provide for the powers that may be exercised if the requirement mentioned in subparagraph (b) is not complied with, including the powers to deny entry to a specified public place, to require the person to wear a mask, and to require the person to leave the place;
- (d) empower the Director of Health to appoint public officers for enforcing the principal Regulation, and provide for the powers of those officers;
- (e) create certain new offences; and
- (f) introduce fixed penalty in respect of the offence under the principal Regulation for not wearing a mask in a specified public place, a public transport carrier or an MTR paid area.

**Prevention and Control of Disease (Wearing of Mask)  
(Amendment) Regulation 2020**

(Made by the Chief Executive in Council under section 8 of the Prevention  
and Control of Disease Ordinance (Cap. 599))

**1. Commencement**

This Regulation comes into operation on 28 August 2020.

**2. Prevention and Control of Disease (Wearing of Mask)  
Regulation amended**

The Prevention and Control of Disease (Wearing of Mask)  
Regulation (Cap. 599 sub. leg. I) is amended as set out in section 3.

**3. Section 5A amended (requirement to wear mask in specified  
public place during specified period)**

(1) Section 5A(3)(i)—

**Repeal**

“; or”

**Substitute a semicolon.**

(2) Section 5A(3)(j)—

**Repeal**

“face.”

**Substitute**

“face; or”.

(3) After section 5A(3)(j)—

**Add**

“(k) the person is engaged in any physical activity (including  
exercise) that may reasonably be regarded as strenuous  
for him or her, in a place that is not indoor.”.

(4) Section 5A(5)—

**Add in alphabetical order**

“*indoor* (室内) means—

(a) having a ceiling or roof, or a cover that functions  
(whether temporarily or permanently) as a ceiling or  
roof; and

(b) having at least 50% of the total area of all sides  
enclosed (whether temporarily or permanently),  
otherwise than by—

(i) any window or door capable of being opened;  
or

(ii) any opening that functions as such a window  
or door;”.

Clerk to the Executive Council

COUNCIL CHAMBER

2020

### **Explanatory Note**

This Regulation amends section 5A of the Prevention and Control of Disease (Wearing of Mask) Regulation (Cap. 599 sub. leg. I) to provide that it is a reasonable excuse for a person not to wear a mask in a specified public place (other than an indoor place) if the person is engaged in any strenuous physical activity there.