

LEGISLATIVE COUNCIL BRIEF

Prevention and Control of Disease Ordinance (Cap. 599)

PREVENTION AND CONTROL OF DISEASE (REQUIREMENTS AND DIRECTIONS) (BUSINESS AND PREMISES) (AMENDMENT) (NO. 7) REGULATION 2020 AND PREVENTION AND CONTROL OF DISEASE (PROHIBITION ON GROUP GATHERING) (AMENDMENT) (NO. 13) REGULATION 2020

INTRODUCTION

At the meeting of the Executive Council on 18 November 2020, the Council **ADVISED** and the Chief Executive **ORDERED** that the following two amendment regulations (“the Amendment 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 effects of the current public health emergency and protecting public health in Hong Kong –

- (a) the **Prevention and Control of Disease (Requirements and Directions) (Business and Premises) (Amendment) (No. 7) Regulation 2020** (at Annex A), which amends the Prevention and Control of Disease (Requirements and Directions) (Business and Premises) Regulation (Cap. 599F) to –

Annex A

- (i) include hotels and guesthouses in Part 1 of Schedule 2 (“scheduled premises”) to Cap. 599F;
- (ii) enhance the enforcement power of authorized officers of Cap. 599F to accord with that under the Prevention and Control of Disease (Prohibition on Group Gathering) Regulation (Cap. 599G); and
- (iii) provide a defence to a charge against the owner or manager of the catering business premises and scheduled premises regulated under Cap. 599F if he has taken all reasonable steps to comply with the directions issued by the Secretary for Food and Health (“SFH”) in respect of the premises; and

Annex B

(b) the **Prevention and Control of Disease (Prohibition on Group Gathering) (Amendment) (No. 13) Regulation 2020** (at Annex B), which amends Cap. 599G to –

- (i) extend the scope of Cap. 599G to cover group gatherings at any catering business premises or scheduled premises regulated under Cap. 599F (“Cap. 599F premises”) whether the premises are a public place or not if the directions related to group gathering imposed on the premises are not complied with; and
- (ii) provide a defence to a charge against a person involved in a prohibited group gathering at any Cap. 599F premises if he has taken all reasonable steps to comply with the directions issued by SFH under Cap. 599F in relation to group gatherings at the premises that apply to him.

JUSTIFICATIONS

Latest Local Situation

2. As of 16 November 2020, the Centre for Health Protection (“CHP”) of the Department of Health (“DH”) had recorded a total of 5 467 cases of COVID-19. Over the past two weeks (3 to 16 November 2020), a total of 130 cases were reported, with 33 local cases (of which 18 cases involved unknown sources of infection) and 93 imported cases and four cases with epidemiological link to imported cases.

3. The third wave of the epidemic in Hong Kong, which began in early July 2020, had subsided by late September, but new local cases especially those with unknown sources continued to be reported. While the slight rebound in early October 2020 had subsided, the number of new local cases and cases with unknown sources had showed signs of rebound again in the week preceding 18 November 2020. The 7-day moving average number of local cases dropped to its recent trough at 0.4 on 31 October and 1 November 2020 but rose to hit 3.4 on 16 November 2020. The 7-day moving average number of local cases with unknown sources showed a similar trend, dropping to its recent trough at 0.3 on 31 October and 1 November 2020 and rebounding to reach 1.9 on 16 November 2020.

4. A new cluster relating to people participating in a “staycation” at a local hotel was reported in early November with further cases being identified through contact tracing. The identification of cases who reside in

Tai Po with unknown source of infection (local cases who reside in Tai Po constitute about 30% of the total local cases identified in the past two weeks) also pointed to the possibility of silent transmission chains in that area though we were not yet able to draw any conclusion on such possibility as all the cases confirmed recently had visited many different places within Hong Kong conducting various activities. The persistence of local cases with unknown sources of infection and the fact that they constituted over half of the local cases in the past two weeks were worrying, indicating on-going silent transmission chains in the community.

5. Meanwhile, the number of imported cases had been increasing steadily in the past week, with 7-day moving average number of imported-related cases increasing from 5.1 on 10 November 2020 to 8.9 on 16 November 2020. The increase of imported cases in tandem with that of new cases identified globally showed that the worsening of the global epidemic situation would continue to pose significant public health risk to Hong Kong.

6. In overall terms, there were signs of rebound of the epidemic situation in Hong Kong, with undetected transmission chains in the community, and the threat of such silent transmissions or newly imported cases rekindling large-scale local outbreaks remained very real. It was extremely important to remain vigilant at that point in time in all aspects of epidemic control measures, especially measures on social distancing.

THE MEASURES

7. The Government has been adopting the infection control strategy of “prevention against importation” and “repression against community spread” to curb the epidemic. In making adjustments to the social distancing measures, the Government has been adopting a refined and sophisticated approach by striking a careful balance between health and social needs of the community. Having regard to the development of the epidemic situation, the Government has relaxed or adjusted the various social distancing measures in a gradual and orderly manner since late August 2020 so as to allow social and economic activities to resume as far as possible in phases under the new normal. Nonetheless, the Government has maintained vigilant and continued to adopt relevant coping measures as necessary in a resolute manner. In view of the latest public health risk assessment and emerging signs of the forth wave of outbreak, the Government has announced on 14 November 2020 the tightening of social distancing

measures to prevent the spread of the virus in the community.

8. In order to reduce the risks of massive community outbreaks which may otherwise trigger the fourth wave of outbreak, there is a need to further tighten social distancing measures with precision and to enhance public awareness on the need for the concerted efforts of everyone in the community to comply with various social distancing measures.

(A) Including “hotels and guesthouses” as scheduled premises under Cap. 599F

9. Since the introduction of Cap. 599F, the Government has been keeping the list of scheduled premises under review and has expanded the list of premises with high risk of infection from time to time. In compiling the list of premises, we have taken into account the nature of activities and premises/venues that are of higher risk as far as COVID-19 transmission is concerned, the feasibility of mitigating such risk through alternative measures, as well as overseas practices. Currently, there are 14 types of scheduled premises under Part 1 of Schedule 2 to Cap. 599F which are subject to the requirements and directions issued by SFH from time to time in relation to the mode of operation or activities carried on at the premises. These premises are as follows –

- (a) amusement game centre;
- (b) bathhouse;
- (c) fitness centre;
- (d) place of amusement;
- (e) place of public entertainment;
- (f) party room;
- (g) beauty parlour;
- (h) club-house;
- (i) club or nightclub;
- (j) karaoke establishment;
- (k) mahjong-tin kau premises;
- (l) massage establishment;
- (m) sports premises; and
- (n) swimming pool.

10. Hotels and guesthouses have become a concern for cross transmission. Since the introduction of the Prevention and Control of Disease (Regulation of Cross-boundary Conveyances and Travellers)

Regulation (Cap. 599H) in mid-July, all incoming travellers from places with very high risk of infections as specified by SFH by notice published in the Gazette are required to be quarantined in hotels for 14 days. As an additional safeguard in prevention and control of disease and to contain the potential risk brought about by the increase of passenger flow while relaxing the control on inbound passenger traffic progressively, the Government has further tightened the quarantine arrangement for incoming travellers from 13 November 2020 onwards, requiring those arriving in Hong Kong from areas outside China to be subject to 14-day compulsory quarantine in hotels, so as to reduce the possibility of imported cases spreading the virus to household members if quarantine is carried out at home. In other words, all inbound travellers from countries outside China are currently required to be subject to 14-day compulsory quarantine in hotels.

11. Recent genetic sequencing studies carried out by the University of Hong Kong have suggested that the SARS-CoV-2 viruses of confirmed COVID-19 cases emerged since late September were genetically distinct from the previous strains of the viruses detected from July to mid-September in Hong Kong. According to the studies, the previous predominating strains in the third wave were not found among the recent confirmed cases in October. The newly introduced clade is very similar to the viruses of imported cases from Nepal detected around mid-September, indicating that the sources of the recent clusters originated from Nepal imported cases. Although DH was unable to identify an epidemiological linkage between the imported cases and local cases, the genetic sequencing findings suggest a high chance of imported cases spreading into the local community. The recent local cases with unknown source belonging to the new lineage live and work in various districts, suggesting that this lineage likely has spread extensively in Hong Kong. Moreover, by analysing the time of detection of confirmed imported cases since October, it was noticed about 74% were diagnosed from testing upon arrival and about 26% from second screening or subsequent testing.

12. On the other hand, it is observed that various “staycation” packages continue to attract a lot of local patrons to spend their holidays at hotels. In early November, a cluster which was related to persons who had taken a “staycation” at a hotel was reported. Three persons who joined the “staycation” were confirmed to have COVID-19. Further cases among household contacts and persons involved in social gatherings with the cases were identified through contact tracing. As at 16 November, a total of seven cases were reported.

13. Prior to the legislative amendments, the number of guests allowed into a hotel room was not subject to any statutory control. While the Commerce and Economic Development Bureau and DH have ongoing dialogues with the hotel trade to introduce voluntary infection control and social distancing measures, such as control of the number of guests to enter into the hotel rooms, there have been growing concerns that the voluntary measures are inadequate to prevent hotel rooms from becoming a popular venue for hosting parties which will then give rise to a large number of people gathering within a confined space, thereby increasing the risk of virus transmission in hotels.

14. In the above circumstances, the risk of cross transmission of virus through hotel facilities cannot be underestimated. To further curb possible transmission brought by imported cases and “staycation” crowd gatherings, we would amend Cap. 599F to include “hotels and guesthouses” as one of the scheduled premises in order to enable SFH to issue directions to impose restriction or requirement on the mode of operation of hotels including the admission of guests to guest rooms. We see merits in providing legal backing to the control of gatherings in hotels which could facilitate the hotel management to ensure compliance by its guests.

(B) To further refine the interface in respect of group gathering between Cap. 599F and Cap. 599G

15. Given that the effectiveness of social distancing measures hinges on compliance, in announcing the latest measures in recent weeks, the Government has repeatedly reminded the public that co-operation and self-discipline of members of the public is the key to preventing the spread of the disease in the community and called on the public to continue to maintain the awareness of epidemic prevention as well as personal and environmental hygiene with a view to preventing another outbreak in the community.

16. Prior to the legislative amendments, group gatherings at any premises that were allowed to be opened and to which a direction issued under section 6 or 8 of Cap. 599F applied were exempted group gatherings under Schedule 1 to Cap. 599G. The formulation of the relevant item when the exemption was first introduced provided a blanket exemption for group gatherings at such premises.

17. In order to provide deterrence against non-compliance with the group-gathering-related requirements and restrictions under the relevant Cap. 599F directions, we have introduced legislative amendments under the

Prevention and Control of Disease (Prohibition on Group Gathering) (Amendment) (No. 11) Regulation 2020 on 30 September 2020 which provided that the relevant exemption under Cap. 599G would no longer apply to group gatherings taking place in catering business premises or scheduled premises that are in violation of the group-gathering-related requirements and restrictions under the relevant cap. 599F directions. In other words, individuals involved in group gatherings (i.e. participants and organisers of the group gatherings, as well as an owner of the place who knowingly allows the group gatherings to take place) in public places within Cap. 599F premises would have to comply with the group-gathering-related restrictions and requirements under the relevant Cap. 599F directions (such as requirements in relation to the number of person allowed per facility and the distancing/partitioning between groups) in order to be exempted from Cap. 599G, or else they would be considered as being involved in a prohibited group gathering should the number of persons exceed that allowed per group gathering under Cap. 599G at the time and be held liable under Cap. 599G, while the liability may be discharged by paying a fixed penalty of \$2,000.

18. The scope of Cap. 599G, prior to the legislative amendments, only covered Cap. 599F premises to the extent that they fell within public places, i.e. a place to which the public or a section of the public may or are permitted to have access from time to time. To complement with the introduction of hotels and guesthouses as one of the scheduled premises under Cap. 599F, there was a need to amend Cap. 599G to extend the requirements and restrictions on group gathering to non-public places (e.g. guest rooms of hotels and guesthouses are likely not public places when they are on hire) under all cap. 599F premises. The effect of the legislative amendment would mean that persons who are involved in group gatherings in violation of group-gathering-related requirements and restrictions under the relevant Cap. 599F directions (e.g. more than four persons in one guest room) would be held liable under Cap. 599G, while the liability may be discharged by paying a fixed penalty.

(C) To introduce provisions to enhance enforcement powers and provide defence for the manager of premises under Cap. 599F

19. The provision of Cap. 599F, prior to the legislative amendments, conferred power on inspectors to demand personal details, inspect the proof of identity and enter relevant places where necessary. As the enforcement between Cap. 599F and Cap. 599G is often interlinked and carried out at the

same time, to facilitate effective enforcement, the powers of inspectors (to be retitled as “authorized officers” to tally with Cap. 599G) have been enhanced to accord with section 12 of Cap. 599G in order to enable authorized officers to enter and search, with warrant, any premises on which a subject catering business is carried on or any scheduled premises, for the purpose of investigation on grounds of reasonable suspicion.

20. Moreover, since Cap. 599F holds persons responsible for carrying on the catering business or managers of the scheduled premises liable for any contravention of the relevant directions, Cap. 599F has been amended to provide that it is a defence if the person or manager has taken all reasonable steps to comply with the directions. A similar defence will also be introduced to Cap. 599G for persons involved in a prohibited group gathering at Cap. 599F premises.

OTHER OPTIONS

21. We have been in discussion with the hotel trade to introduce voluntary measures to control the number of guests to be admitted into the hotel rooms. Notwithstanding the trade’s cooperative stance, given the need to tighten social distancing measures, we consider it more desirable to provide the Government with statutory power to impose directions on the mode of operation of the hotels, particularly the capacity of guest rooms. Clear legal backing would also facilitate the hotel management to require compliance by its hotel guests and hence help curb the possible transmission in hotels under the current state of public health emergency.

THE AMENDMENT REGULATIONS

22. The main provisions of the Amendment Regulations are set out in paragraph 1.

LEGISLATIVE TIMETABLE

23. The legislative timetable is as follows –

Publication in the Gazette	18 November 2020
Commencement	20 November 2020
Tabling at the Legislative Council	25 November 2020

IMPLICATIONS OF THE PROPOSAL

24. The proposal is in conformity with the Basic Law, including the provisions concerning human rights.

PUBLIC CONSULTATION

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

PUBLICITY

26. We issued a press release and announced the Amendment Regulations at a press conference on 18 November 2020. A spokesperson was also made available to respond to public or media enquiries.

BACKGROUND

27. 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 and other related requirements on arrivals as well as to enhance social distancing in the community.

28. According to the World Health Organization, 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.

29. Section 8 of the Ordinance empowers the Chief Executive in Council to make regulation 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. 599F and Cap. 599G

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

31. Since late August 2020, the Government, having regard to the development of epidemic situation, 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 in phases under the new normal.

32. Nevertheless, in view of the signs of rebound in local confirmed cases with unknown source of infection since early November, the Government has tightened up social distancing measures with effect from 16 November 2020. While catering business and all the 14 types of scheduled premises under Schedule 2 of Cap. 599F can be open for business, they could only operate subject to certain restrictions and requirements. For catering business premises, the dine-in hours (including bars and pubs) have been restricted to end at 11:59 p.m., the number of persons that may be seated together at one table has been reduced from six to four (except for bars or pubs) and from four to two for bars or pubs and clubs or nightclubs. The total number of people allowed in catering business premises (including bars and pubs), clubs or nightclubs, and swimming pools where mask-off activities usually take place, has been reduced from 75% to 50% of the normal seating capacity or maximum capacity of the premises. In view of the higher public health risk brought about by mask-off social gatherings, the mask-off exemption for persons doing exercise involving physical contact at indoor sports premises and ice-skating rink has also been removed.

33. As for Cap. 599G, it 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. The Chief

Secretary for Administration may permit certain group gatherings.

34. 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.

35. In order to provide deterrence against non-compliance with the group-gathering-related requirements and restrictions under the relevant Cap. 599F directions, we have introduced legislative amendments under the Prevention and Control of Disease (Prohibition on Group Gathering) (Amendment) (No. 11) Regulation 2020 on 30 September which provided that the relevant exemption under Cap. 599G would no longer apply to group gatherings taking place in catering business premises or scheduled premises in public places that are in violation of the group-gathering-related requirements and restrictions under the relevant Cap. 599F directions. On the other hand, with effect from 2 October 2020, group gathering during religious activities at places of worship has been exempted subject to certain conditions. Subsequently, amendments were also made to Cap. 599G to increase the maximum number of persons allowed from 20 to 50 in wedding ceremonies, and in each room/partitioned area at a meeting of a body that must be held within a specified period under any ordinance or regulatory instruments, including annual general meeting or extraordinary general meeting; and broadening the scope of exempted group gatherings to include group gatherings of not more than 30 persons during local tours organised by licensed travel agents and registered with the Travel Industry Council of Hong Kong, with effect from 23 October 2020.

36. Both Cap. 599F and Cap. 599G will expire at the midnight on 31 December 2020.

ENQUIRIES

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

Food and Health Bureau
November 2020

Prevention and Control of Disease (Requirements and Directions) (Business and Premises) (Amendment) (No. 7) Regulation 2020

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Prevention and Control of Disease (Requirements and Directions) (Business and Premises) (Amendment) (No. 7) Regulation 2020

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

Part 1

Preliminary

1. Commencement

- (1) Subject to subsection (2), this Regulation comes into operation on 20 November 2020.
- (2) Part 3 comes into operation on 1 December 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 Parts 2 and 3.

Part 2

Amendments to Prevention and Control of Disease (Requirements and Directions) (Business and Premises) Regulation

- 3. Section 3 amended (requirement to cease selling food or drink etc. during specified period)**
Section 3(6)—
Repeal
“, without reasonable excuse,”.
- 4. Section 7 amended (person responsible for carrying on a catering business must comply with directions of Secretary)**
Section 7(2)—
Repeal
“, without reasonable excuse,”.
- 5. Section 9 amended (manager of scheduled premises must comply with directions of Secretary)**
Section 9(2)—
Repeal
“, without reasonable excuse,”.
- 6. Part 4 heading amended (inspection powers)**
Part 4, heading—
Repeal
“**Inspection**”

Substitute
“Enforcement”.

7. Section 11 amended (appointment of inspectors)

(1) Section 11, heading—

Repeal
“Appointment of inspectors”

Substitute
“Authorized officers”.

(2) Section 11(1) and (2)—

Repeal
“inspector”

Substitute
“authorized officer”.

(3) Section 11(3)—

Repeal
“an inspector”

Substitute
“an authorized officer”.

(4) Section 11(3)—

Repeal
“inspector’s”

Substitute
“officer’s”.

(5) Section 11(3)—

Repeal

“the inspector”

Substitute
“the officer”.

8. Section 12 amended (powers of inspectors)

(1) Section 12, heading—

Repeal
“of inspectors”

Substitute
“to enter and inspect specified premises”.

(2) Section 12(1)—

Repeal
“An inspector”

Substitute
“An authorized officer”.

(3) Section 12(1)(a), (d) and (e)—

Repeal
“the inspector” (wherever appearing)

Substitute
“the officer”.

(4) Section 12(2)—

Repeal
“an inspector”

Substitute
“an authorized officer”.

(5) Section 12(2)—

Repeal

“the inspector” (wherever appearing)

Substitute

“the officer”.

9. Section 12A added

After section 12—

Add

“12A. Power to enter and search specified premises with warrant for investigation

- (1) If satisfied by information on oath that there are reasonable grounds for suspecting that there is on any specified premises anything that is or contains, or that is likely to be or to contain, evidence of an offence under this Regulation, a magistrate may issue a search warrant in respect of the premises.
- (2) The search warrant may authorize an authorized officer to—
 - (a) break into and forcibly enter the premises and search the premises;
 - (b) seize, remove or detain anything that appears to the officer to be or to contain, or to be likely to be or to contain, evidence of an offence under this Regulation; and
 - (c) require any person present on the premises to provide the officer with any assistance or information that the officer reasonably considers necessary to enable the officer to perform a function under this Part.”.

10. Section 13 amended (obstruction of inspectors etc. prohibited)

- (1) Section 13, heading—

Repeal

“inspectors”

Substitute

“authorized officers”.

- (2) Section 13(1) and (2)—

Repeal

“inspector”

Substitute

“authorized officer”.

11. Part 5 heading amended (expiry)

Part 5, heading—

Repeal

“Expiry”

Substitute

“Miscellaneous”.

12. Section 13A added

Part 5, before section 14—

Add

“13A. Defence

- (1) It is a defence for a person charged with an offence under section 3(6), 7(2) or 9(2) to establish that, at the time of the alleged offence, the person had lawful authority or

reasonable excuse for contravening the provision concerned.

- (2) Without limiting subsection (1), it is a defence for a person charged with an offence under section 7(2) or 9(2) for a failure to comply with a direction to establish that, at the time of the alleged offence, the person had taken all reasonable steps to comply with the direction.
- (3) A person is taken to have established a matter that needs to be established for a defence under this section if—
 - (a) there is sufficient evidence to raise an issue with respect to that matter; and
 - (b) the contrary is not proved by the prosecution beyond reasonable doubt.”.

13. Schedule 2 amended (scheduled premises)

- (1) Schedule 2, Part 1—

Add

“15. Hotel or guesthouse (except the premises specified in the Schedule to the Hotel and Guesthouse Accommodation (Exclusion) Order (Cap. 349 sub. leg. C))”.

- (2) Schedule 2, Part 2, section 1—

Add in alphabetical order

“*guesthouse* (旅館) has the meaning given by section 2(1) of the Hotel and Guesthouse Accommodation Ordinance (Cap. 349);

hotel (旅館) has the meaning given by section 2(1) of the Hotel and Guesthouse Accommodation Ordinance (Cap. 349);”.

Part 3

**Amendments to Prevention and Control of Disease
(Requirements and Directions) (Business and Premises)
Regulation as amended by Part 2**

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

- (1) Section 3(4), Chinese text—

Repeal

“旅館”

Substitute

“酒店或賓館”.

- (2) Section 3—

Repeal subsection (7)

Substitute

“(7) In subsection (4)—

hotel or guesthouse (酒店或賓館) has the meaning given by section 2A of the Hotel and Guesthouse Accommodation Ordinance (Cap. 349).”.

15. Schedule 2 amended (scheduled premises)

- (1) Schedule 2, Chinese text, Part 1, item 15—

Repeal

“旅館”

Substitute

“酒店或賓館”.

- (2) Schedule 2, Part 2, section 1—

Repeal the definitions of *guesthouse* and *hotel*.

- (3) Schedule 2, Part 2, section 1—

Add in alphabetical order

“*hotel or guesthouse* (酒店或賓館) has the meaning given by section 2A of the Hotel and Guesthouse Accommodation Ordinance (Cap. 349);”.

Clerk to the Executive Council

COUNCIL CHAMBER

2020

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*).

2. Part 2—

- (a) adds hotel or guesthouse to Part 1 of Schedule 2 to the principal Regulation;
- (b) provides for a power to enter and search specified premises (as defined by section 10 of the principal Regulation) with warrant for investigation, and consequentially amends the references to “inspector” to “authorized officer”; and
- (c) provides that it is a defence for a person charged with an offence under Part 2 or 3 of the principal Regulation to establish that the person had taken all reasonable steps to comply with the direction concerned.

3. Part 3 updates the definitions of *guesthouse* and *hotel* under the principal Regulation having regard to the Hotel and Guesthouse Accommodation (Amendment) Ordinance 2020 (6 of 2020), which will come into operation on 1 December 2020.

Prevention and Control of Disease (Prohibition on Group Gathering) (Amendment) (No. 13) 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 20 November 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 to 10.

3. Section 2 amended (interpretation)

Section 2—

Add in alphabetical order

“Cap. 599F premises (《第 599F 章》處所) means any premises in relation to which a Cap. 599F direction is in force;

relevant requirement or restriction (相關規定或限制), in relation to a group gathering at any Cap. 599F premises, means a requirement or restriction that is—

- (a) specified in the Cap. 599F direction in force in relation to the premises; and
- (b) imposed in relation to a group gathering at the premises;”.

4. Section 3 amended (prohibition on group gathering during specified period)

Section 3—

Repeal subsection (1)

Substitute

“(1) The following group gatherings are prohibited from taking place during a specified period—

- (a) a group gathering at a public place other than Cap. 599F premises; and
- (b) a group gathering at any Cap. 599F premises in relation to which a relevant requirement or restriction is not complied with.”.

5. Section 6 amended (offence if prohibited group gathering takes place)

Section 6(1)(c)(i)—

Repeal

“in”

Substitute

“or premises at”.

6. Section 7 amended (defence for offence under section 6)

(1) Section 7(1), Chinese text—

Repeal

“證明”

Substitute

“確立”.

(2) Section 7(1A)—

Repeal

“premises in relation to which a Cap. 599F direction was in force”

Substitute

“any Cap. 599F premises”.

- (3) Section 7(1A)(a)—

Repeal

everything after “any”

Substitute

“relevant requirement or restriction that applied to the person (*applicable requirement or restriction*);”.

- (4) After section 7(1A)(a)—

Add

“(ab) the person had taken all reasonable steps to comply with all applicable requirements or restrictions; or”.

- (5) Section 7(2), Chinese text—

Repeal

“證明的事宜，須視作已由該人證明”

Substitute

“確立的事宜，須視作已由該人確立”。

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

Section 10, heading, after “etc.”—

Add

“in public place”.

8. **Section 11 amended (power to enter and inspect public place)**

- (1) Section 11, heading, after “place”—

Add

“or Cap. 599F premises”.

- (2) Section 11(a), after “place”—

Add

“or Cap. 599F premises”.

- (3) Section 11(b) and (f), after “place” (wherever appearing)—

Add

“or premises”.

9. **Section 14 amended (authorized officers)**

- (1) Section 14(1), after “may”—

Add

“, in writing,”.

- (2) After section 14(1)—

Add

“(1A) An authorized officer must, if so required, produce written proof of his or her appointment before performing a function under this Regulation.”.

10. **Schedule 1 amended (exempted group gatherings)**

- (1) Schedule 1—

Repeal item 13.

- (2) Schedule 1, item 16—

Repeal

“premises in relation to which a Cap. 599F direction is in force”

Substitute

“Cap. 599F premises”.

Clerk to the Executive Council

COUNCIL CHAMBER

2020

Explanatory Note

The main purpose of this Regulation is to amend the Prevention and Control of Disease (Prohibition on Group Gathering) Regulation (Cap. 599 sub. leg. G) (*principal Regulation*) to extend the scope of the principal Regulation to cover group gatherings at any “Cap. 599F premises” whether the premises are a public place or not.

2. “Cap. 599F premises” are premises in relation to which 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) (*Cap. 599F direction*) is in force.
3. After the amendments, a group gathering at any Cap. 599F premises will be prohibited under the principal Regulation if any requirement or restriction that is specified in the Cap. 599F direction and imposed in relation to a group gathering at the premises is not complied with.