

LEGISLATIVE COUNCIL BRIEF

Prevention and Control of Disease Ordinance (Cap. 599)

PREVENTION AND CONTROL OF DISEASE AMENDMENT REGULATIONS

INTRODUCTION

At the meeting of the Executive Council on 8 December 2020, the Council **ADVISED** and the Chief Executive **ORDERED** that –

- (a) in view of the continued public health emergency arising from the COVID-19 epidemic situation both globally and locally, the expiry date of the following emergency regulations be extended from midnight of 31 December 2020 to midnight of 31 March 2021 and that the following amendment regulations should be made under section 8 of the Prevention and Control of Disease Ordinance (Cap. 599) (“the Ordinance”) to that effect –

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

Annex A

- (i) the **Compulsory Quarantine of Certain Persons Arriving at Hong Kong (Amendment) (No. 8) Regulation 2020** (at Annex A);

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

Annex B

- (ii) the **Prevention and Control of Disease (Disclosure of Information) (Amendment) (No. 4) Regulation 2020** (at Annex B);

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

Annex C

- (iii) the **Compulsory Quarantine of Persons Arriving at Hong Kong from Foreign Places (Amendment) (No. 5) Regulation 2020** (at Annex C);

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

Annex D

- (iv) the **Prevention and Control of Disease (Requirements and Directions) (Business and Premises) (Amendment) (No. 8) Regulation 2020** (at Annex D);

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

Annex E

- (v) the **Prevention and Control of Disease (Prohibition on Group Gathering) (Amendment) (No. 16) Regulation 2020** (at Annex E);

Prevention and Control of Disease (Regulation of Cross-boundary Conveyances and Travellers) Regulation (Cap. 599H)

Annex F

- (vi) the **Prevention and Control of Disease (Regulation of Cross-boundary Conveyances and Travellers) (Amendment) (No. 2) Regulation 2020** (at Annex F); and

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

Annex G

- (vii) the **Prevention and Control of Disease (Wearing of Mask) (Amendment) (No. 4) Regulation 2020** (at Annex G); and

Annex H

- (b) the **Prevention and Control of Disease (Compulsory Testing for Certain Persons) (Amendment) (No. 2) Regulation 2020** (“the Amendment Regulation”) (at Annex H), which amended Cap. 599J, should be made under section 8 of 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 to –
 - (i) allow reasonable requirements to be imposed on the person(s) concerned until the relevant test result is available when a

- compulsory testing direction, compulsory testing notice or compulsory testing order is issued; and
- (ii) empower the Secretary for Food and Health (“SFH”) to, subject to meeting specified conditions, issue a restriction-testing declaration to restrict the movement of persons into and out of any premises, require persons on the premises to undergo testing and comply with any other associated requirements.

JUSTIFICATIONS

Latest Local Situation

2. As of 6 December 2020, the Centre for Health Protection of the Department of Health had recorded a total of 6 898 cases of COVID-19. Over the past two weeks (23 November – 6 December 2020), a total of 1 269 cases were reported, with 1 164 local cases (of which 282 cases involved unknown sources of infection) and 104 imported cases and one case with epidemiological link to imported cases. Over the same period, the 7-day moving average number of local cases had risen drastically from 26.9 to 85.0, with the 7-day moving average number of local cases with unknown sources increasing from 5.7 to 24.9. The fourth wave of the epidemic had arrived.

3. While no further new cases had been identified for the cluster relating to people participating in a “staycation” at a local hotel in early November, new clusters involving singing and/or dancing activities had emerged. These new clusters involved a large number of persons, with over 640 cases identified (as at 6 December) since the reporting of the first case on 18 November 2020. These cases also involved people who had been very active socially and participated in many group gatherings in various venues across different districts, resulting in widespread transmission of the virus when such people gather without wearing masks. Outbreaks were also reported in other settings including construction sites and residential care homes for persons with disabilities (“RCHDs”), etc. The resurgence of local cases coincided with the relaxation of social distancing measures in end October 2020 when we allowed essentially all activities to resume and extended the dine-in hours up to 2:00 in the morning. This showed that the community outbreaks were likely brought about by the increase in social activities that accompanied the relaxation of social distancing measures as well as the general epidemic fatigue that the community had been experiencing.

4. Meanwhile, the resurgence of cases globally continued to pose challenges to our local situation. The 7-day moving average of imported cases had increased from 6.7 on 23 November 2020 to 9.1 on 6 December 2020. The dire epidemic situation globally continued to pose significant health risks to Hong Kong.

5. In view that the epidemic situation would continue globally and locally for the foreseeable future and the public health emergency would unlikely stand down in the months to come, there was a need to maintain the legal framework for the various epidemic control measures so as to enable the Government to continue to take such measures to combat the epidemic situation. Flexibility has already been built into these emergency regulations made under Cap. 599 to allow the stringency of measures to be adjusted having regard to the epidemic control strategy and situation. However, we did not envisage that in the months to come we may forego the legal framework under any of the emergency regulations.

Compulsory Testing

6. According to the World Health Organization (“WHO”), testing is an important tool in the overall epidemic control strategy in fighting the global emergency of the COVID-19 pandemic. Administering testing in a systematic and efficient manner as part of epidemiological tracing, disease surveillance and targeted screening enables effective early detection, early isolation and early treatment of infected persons, thereby curbing early the transmission chains and preventing further infections. While administering testing on a voluntary basis may still be able to serve such purpose when compliance is high, compulsory testing may be more relevant in scenarios where the participation rate in voluntary testing of people with potentially higher risk of infections or potentially higher exposure to the virus is not high, thus making voluntary testing less effective as a tool in curbing transmissions.

7. Cap. 599J approved by the Chief Executive in Council (“CE-in-C”) on 13 November 2020 and came into force on 15 November 2020 empowers SFH, having regard to the extent and pattern of the spread of COVID-19 in Hong Kong or anywhere else in the world and the need to alleviate the effects of COVID-19 on the carrying out of social and economic activities in the interest of the society, for preventing, protecting against, delaying or otherwise controlling the incidence or transmission of COVID-19 –

- (a) to specify by Gazette notice a period of not more than 14 days during which specified registered medical practitioners are empowered to require a person whom the medical practitioner clinically suspects to have contracted COVID-19 to undergo testing by a compulsory testing direction issued to that person; and
- (b) to issue a compulsory testing notice by publication in the Gazette to require a certain category or description of persons to undergo testing. Such categories or description of persons may cover (i) persons in an outbreak or cluster situation related to their presence in a place or occupation; (ii) persons with frequent contact with other persons with considerable health risks; (iii) persons in high-exposure groups which come frequently into contact with a large number of people; (iv) persons involved in the provision of essential goods and services; and (v) persons who have recently arrived in Hong Kong.

8. Since Cap. 599J came into effect on 15 November 2020 up till 8 December 2020 when the legislative amendments were submitted to CE-in-C, SFH has made the following specifications by way of publishing compulsory testing notices to require compulsory testing for certain persons

—

- (a) Specifications were made on 27 November 2020 to empower all medical practitioners with full or limited registration to issue compulsory testing directions during the period 28 November to 11 December 2020 to require a person whom the medical practitioner clinically suspects to have contracted COVID-19 to undergo testing. Between 28 November 2020 and 4 December 2020, some 10 500 compulsory testing directions have been issued by private medical practitioners, and during the same period testing of symptomatic patients through private medical practitioners have identified some 180 preliminary positive cases.
- (b) A total of five ad hoc compulsory testing notices were issued between 21 November 2020 and 1 December 2020 requiring persons who have been to 26 dance clubs/venues, two fitness centres, five restaurants and one construction site during a certain specified period to undergo testing by a specified deadline and to report their testing completed by another specified deadline. As of 6 December 2020, the Community Testing Centres set up by the Government have undertaken 47 445 tests for persons subject to compulsory testing among which 127 preliminary positive cases have been identified,

and we have received a total of 6 453 compliance report of compulsory testing completed.

- (c) A compulsory testing notice was issued on 30 November 2020 requiring all persons who are employed by and would be on duty during the period 15 – 21 December 2020 at residential care homes for the elderly (“RCHEs”), RCHDs, nursing homes and day services units attached to the premises of residential care homes to undergo testing within the period of 1 to 14 December 2020. It is expected that some 40,000 of RCHE/RCHD staff will be subject to compulsory testing. It is the intention to repeat the compulsory testing direction to require such staff to undergo testing regularly thereafter. The Social Welfare Department will check compliance by RCHEs/RCHDs and their staff through spot checks and inspections from 15 December 2020 onwards.
- (d) A compulsory testing notice was issued on 5 December 2020 requiring all taxi drivers who intend to drive a taxi at any time during the period between 25 December 2020 and 23 January 2021 to undergo testing within the period of 9 to 22 December 2020 or before driving a taxi. The Transport Department and Police will check compliance by random checks on taxi drivers on the road from 25 December 2020 to 23 January 2021.

9. The response rate, compliance rate and positive rate of the compulsory testing for symptomatic patients and ad hoc clusters thus far suggest that compulsory testing by and large has positive effects in infection control by facilitating early identification and detection of infected persons, thus curtailing their further transmission of infection within the community. It is too early to assess the degree of compliance and success of the compulsory testing for RCHE/RCHD staff and taxi drivers in protecting the vulnerable groups and curbing transmission chains in the community, but at the very least the massive testing of these high-risk and high-exposure groups should be able to help detect more silent transmissions and asymptomatic cases.

Need for Restriction on Movement cum Compulsory Testing

10. While thus far we have observed a fairly high degree of compliance with the compulsory testing requirement, we envisage that compulsory testing alone may not be sufficiently effective to curb transmission of infection in some circumstances.

11. First and foremost, for groups of persons assessed as having a relatively higher risk of being infected (e.g. to be seen by medical practitioners or to be tested through ad hoc cluster testing, i.e., those in paragraph 8(a) and (b) above), compulsory testing is administered more as a detection and tracing measure rather than a prevention and screening measure. Those who are required to undergo testing supposedly have higher risk of having been infected or would pose a considerable risk to vulnerable groups. It is thus imperative that those who are subject to compulsory testing should, as far as possible, be subject to necessary prevention and restriction on movement measures pending testing results. This ensures that, pending test results, the risks of those subject to compulsory testing spreading the virus within the community could be minimised. We consider that this approach should be effective for groups of persons subject to compulsory testing directions/notices who come forth on their own volition in their first instance, as they are likely willing to continue to comply with such advice attached to the directions/notices pending testing results.

12. However, the above approach may not be sufficient or effective enough for situations involving outbreaks or multiple infections where the persons supposedly the targets for compulsory testing by their location or occupation may not readily come forth to let themselves be identified and comply with compulsory testing order co-operatively or where swift testing has to be carried out to cut transmission chains. Notable examples include clusters possibly involving sex workers or illegal immigrants, who are often working in certain nearby premises or buildings but cannot be easily located or identified in a specific premises and would most likely scatter and hide once compulsory testing notices, directions and/or orders are issued against them. In such situations, to effectively apply compulsory testing as a means of identifying and detecting infected persons, there may be a need for effective measures to restrict movement of these people to be taken in conjunction, in order to ensure that the persons stay within the premises, a building or an area and compulsory testing may be carried out swiftly on all persons concerned until they are all properly identified and tested and the test results are available. Only until testing is completed could their movement restrictions be lifted so as to avoid the further spreading of the infections outside the premises/building/area.

13. It should be noted that this approach of restriction on movement-cum-testing is not meant to be one-size-fits-all. For example, it may not be appropriate or necessary in some situations involving outbreaks or multiple infections. In situations where an environmental source of infection (e.g.

spread through defective sewerage system) and there is a high risk of infection of people in the vicinity, the more appropriate approach is to remove the source of infection and evacuate people to quarantine venues. Such an approach had been adopted in the past (e.g. in Cheung Tsing Estate and Lek Yuen Estate where it was believed that environmental factors such as sewerage might have been the source of infection).

THE MEASURES

14. Having regard to the need to apply compulsory testing in conjunction with measures to restrict movement in order to serve as an effective means to identify and detect infected persons, we have amended Cap. 599J to:

- (a) allow us to impose conditions in relation to preventive and social distancing measures under compulsory testing directions, compulsory testing notices or compulsory testing orders; and
- (b) introduce a new part to allow us to put in place restriction on movement-cum-testing arrangements.

Subjecting Persons on Certain Premises to Restriction and Compulsory Testing

15. The amended legal framework in paragraph 14(b) above would allow SFH to make a restriction-testing declaration when (a) a considerable number of persons who have recently contracted the disease have recently been present on the premises; and/or (b) a person who has recently contracted the disease and who has recently been present on the premises is likely to have been in close proximity to a considerable number of other persons on the premises and, accordingly, persons who are present on the premises are likely to be or to have been exposed to a significant risk of contracting the disease hence there is a need to ascertain as soon and as extensively as practicable whether such persons are infected in order to prevent the spread of the disease. Once a restriction-testing declaration is made, no person who is on the premises would be allowed to leave the premises until all such persons have undergone testing and the test results are ascertained, at which point the declaration would be revoked¹. Reasonable excuse is provided for leaving the premises, such as the need to receive urgent medical treatment and, in permitting a person to leave the

¹ A restriction-testing declaration that is not revoked would cease to have effect seven days after the declaration takes effect.

premises, the person has to comply with any direction that a prescribed officer reasonably consider necessary for the purpose of infection control. At the same time, no person may enter the premises, unless, for example, the person is returning to his/her residence and such person would be subject to the same restrictions applicable to other persons on the premises upon entry, i.e. the person would not be allowed to leave the premises until all persons thereon have undergone testing and the test results are ascertained.

16. SFH is also empowered to transfer a category of persons on the premises for the purposes of infection control, e.g. when there is environmental contamination onsite and therefore persons should be transferred to other premises rather than be required to stay.

Sanctions

17. Any person who breaches the restriction-testing declaration or a direction to be transferred to a designated place commits an offence and may be liable to a maximum fine at level 4 (\$25,000) and to imprisonment for 6 months by prosecution on summons.

Enforcement

18. Public officers would be authorised to enforce Cap. 599J as prescribed officers. The types of public officers/persons who would enforce Cap. 599J in respect of the restriction on movement and testing of a particular group of target persons would be specified under the relevant declaration made by SFH. In order to implement such restriction on movement cum testing to be effective, the legal framework would also provide power to detain or remove persons, to enter and inspect premises with warrant in general situations and to demand information or assistance. Obstruction of prescribed officers would be an offence under the regulation and offenders are liable to a fine at level 3 (\$10,000).

Enhancing Existing Provisions Pending Compulsory Testing Results

19. While the Cap. 599J provisions prior to the legislative amendments allow the imposition of other requirements that the person must comply with in relation to that person's undergoing of the test, to provide clear legal backing for imposing preventive and restriction on movement measures as part of the conditions of the compulsory testing directions issued on them, we have explicitly provided under the relevant provisions that reasonable requirements may be imposed on a person who is subject to compulsory testing until the test result is ascertained and such requirements may include requiring the person concerned to stay at, or not enter, a particular place until

the test result is ascertained.

20. Non-compliance with the requirement would result in a fixed penalty of \$5,000 for that specified under a compulsory testing direction or compulsory testing notice and, for a compulsory testing order, a maximum fine of level 4 (\$25,000) and imprisonment for up to 6 months upon conviction.

Extension of Expiry Date of Other Emergency Regulations

21. Currently border control measures are imposed under Cap. 599C, Cap. 599E and Cap. 599H while social distancing or other preventive measures are imposed under Cap. 599F, Cap. 599G and Cap. 599I. Cap. 599D provides the legal framework in relation to contact tracing. As we would continue to require the relevant powers to implement the said measures at least in the short to medium term, we have extended the expiry date of all these emergency regulations by three months, from 31 December 2020 to 31 March 2021.

OTHER OPTIONS

22. The Prevention and Control of Disease Regulation (Cap. 599A) empowers the Director of Health (“DoH”) to place any place under isolation, issue quarantine and isolation orders to certain persons, and impose entry and exit restrictions to a place of quarantine or under isolation. While that power exists, the threshold for invoking that power is generally tied to there being sufficient reasons to suspect that a place or person has been infected, which is generally a higher threshold than the threshold for imposing compulsory testing under Cap. 599J in a public health emergency for the sake of preventing, protecting against, delaying or otherwise controlling the incidence or transmission of a disease. Cap. 599A also does not provide for ancillary powers exercisable by other authorised officers to effectively impose and enforce the restriction on movement in conjunction with testing. We consider that introducing specific provisions in Cap. 599J to enable restriction on movement in conjunction with testing will be more effective for the prevention of the spread of a specified infectious disease on the present occasion of a public health emergency and there is no other appropriate option that may enable the implementation of the proposed measures.

23. As for the epidemic control measures currently implemented under the other emergency regulations, there are no other appropriate means to impose these measures hence extension of these emergency regulations is necessary.

THE AMENDMENT REGULATIONS

24. The amendment regulations concerning Cap. 599C to Cap. 599I extended the expiry dates of these seven emergency regulations from 31 December 2020 to 31 March 2021.

25. For the Amendment Regulation, it amended Cap. 599J by –

- (a) adding a new Part 4A and making consequential amendments for the addition; and
- (b) adding provisions that empower a compulsory testing direction, compulsory testing notice or compulsory testing order to specify certain requirements that a person must comply with until the person's test result for COVID-19 is ascertained.

26. Under the new Part 4A, SFH may, by making a restriction-testing declaration, subject certain premises to restriction. Persons who are on, or have entered, the premises are generally required to stay on the premises, or a designated place to which they have been transferred, until their test results for COVID-19 are ascertained. Specifically, the new Part 4A –

- (a) empowers SFH to make a restriction-testing declaration in relation to certain premises if SFH is satisfied that certain conditions are met in relation to the premises;
- (b) imposes exit and entry restrictions for the premises;
- (c) empowers prescribed officers to require persons found on the premises to undergo tests for COVID-19 in accordance with the officers' instructions
- (d) provides for the conditions under which the declaration may be revoked and its maximum effective period;
- (e) empowers SFH to direct persons on the premises to be transferred to a designated place and provides for the compliance with the direction;
- (f) confers certain powers on prescribed officers to enforce the declaration;

- (g) provides for the performance of functions of prescribed officers, both in relation to children and mentally incapacitated persons and generally; and
- (h) provides for the Government's duty to ensure that persons on the premises are supplied with basic necessities where the premises have been subject to restriction for 12 hours or more.

LEGISLATIVE TIMETABLE

27. The legislative timetable is as follows –

Publication in the Gazette	8 December 2020
Commencement	9 December 2020
Tabling at the Legislative Council	16 December 2020

IMPLICATIONS OF THE PROPOSAL

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

PUBLIC CONSULTATION

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

PUBLICITY

30. We issued a press release and announced the amendment regulations together with other measures at a press conference on 8 December 2020. In addition, a spokesperson was made available to respond to public or media enquiries.

BACKGROUND

31. 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.

32. According to the 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.

33. Section 8 of the Ordinance empowers the CE-in-C 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

34. 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 sought the endorsement of the CE-in-C on several separate occasions to enhance the provisions of the regulation 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 person as approved by the Chief Secretary for Administration (“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;
- (d) empowering SFH to exclude certain specified categories of persons arriving from certain Category 2 specified places in China from compulsory quarantine provided that they meet specified conditions; and
- (e) extending the expiry date of the regulation (i.e. the regulation will now expire at midnight on 31 December 2020).

Cap. 599D

35. Cap. 599D took effect on 8 February 2020 and empowers a health officer to require a person to give any information that he/she 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. The person commits an offence if he/she fails to comply with such a requirement or if he 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. To facilitate contact tracing work, the above powers are extended to authorized officers appointed by DoH with effect from 22 August 2020.

Cap. 599E

36. 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 any place outside China, unless exempted. In July 2020, we extended the expiry date of regulation to 31 December 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. In September 2020, Cap. 599E was further amended to empower SFH to exclude certain categories of persons specified by SFH arriving from certain Category 2 specified places outside China from compulsory quarantine provided that they meet conditions specified by SFH.

Cap. 599F and Cap. 599G

37. We introduced Cap. 599F and Cap. 599G to impose social distancing measures in light of the outbreak situation in late March 2020. Cap. 599F was introduced to impose temporary measures on catering business and scheduled premises as follows –

- (a) amusement game centre;
- (b) bathhouse;
- (c) fitness centre;
- (d) place of amusement;
- (e) place of public entertainment;
- (f) premises (commonly known as party room) that are maintained or intended to be maintained for hire for holding social gatherings;
- (g) beauty parlour;
- (h) club-house;
- (i) establishment (commonly known as club or nightclub) that is open late into the night, usually for drinking, and dancing or other entertainment;
- (j) karaoke establishment;
- (k) mahjong-tin kau premises;
- (l) massage establishment;
- (m) sports premises;
- (n) swimming pool; and
- (o) hotel/guesthouse.

38. As for Cap. 599G, it was introduced in end March 2020 to prohibit group gatherings 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 CS may permit certain group gatherings.

39. The number of persons allowed in a group gathering in a public place or on a Cap. 599F premises as well as the list of exempted group gatherings have been adjusted from time to time in response to the development of the epidemic situation. Having regard to the fourth wave of the epidemic, amongst others, the number of persons allowed in a group gathering in a public place has been reduced to no more than two persons and the exemptions for religious gatherings and local tours have been removed with effect from 2 December 2020.

Cap. 599H

40. Cap. 599H took effect on 15 July 2020 which empowers SFH to impose testing and quarantine conditions on travellers coming to Hong Kong from specified places to reduce the health risk they may bring to Hong Kong. An inbound traveller who has stayed in any of the 18 specified place (i.e. Bangladesh, Belgium, Ecuador, Ethiopia, France, Germany, India, Indonesia, Kazakhstan, Nepal, Pakistan, the Philippines, Romania, Russia, South Africa, Turkey, the United Kingdom and the United States of America), must provide documents showing a negative COVID-19 testing result and hotel room reservation before he/she is allowed to board the aircraft. Those who have stayed in all other countries except China are required to provide document(s) showing hotel room reservation before he/she is allowed to board the aircraft bound for Hong Kong.

Cap. 599I

41. 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. It has been amended to further empower SFH to impose such mask-wearing requirement on persons entering or present in specified public places (currently covering all indoor or outdoor public places, except country parks and special areas as defined in the Country Parks Ordinance (Cap. 208)).

ENQUIRIES

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

**Food and Health Bureau
December 2020**

Compulsory Quarantine of Certain Persons Arriving at Hong Kong (Amendment)
(No. 8) Regulation 2020

Section 1

1

**Compulsory Quarantine of Certain Persons Arriving at
Hong Kong (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 9 December 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

“December 2020”

Substitute

“March 2021”.

Compulsory Quarantine of Certain Persons Arriving at Hong Kong (Amendment)
(No. 8) Regulation 2020

2

Clerk to the Executive Council

COUNCIL CHAMBER

2020

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 31 December 2020 to 31 March 2021.

**Prevention and Control of Disease (Disclosure of
Information) (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 9 December 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

“December 2020”

Substitute

“March 2021”.

Clerk to the Executive Council

COUNCIL CHAMBER

2020

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 December 2020 to 31 March 2021.

Compulsory Quarantine of Persons Arriving at Hong Kong from Foreign Places
(Amendment) (No. 5) Regulation 2020

Section 1

1

**Compulsory Quarantine of Persons Arriving at Hong
Kong from Foreign Places (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 9 December 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

“December 2020”

Substitute

“March 2021”.

Compulsory Quarantine of Persons Arriving at Hong Kong from Foreign Places
(Amendment) (No. 5) Regulation 2020

2

Clerk to the Executive Council

COUNCIL CHAMBER

2020

Compulsory Quarantine of Persons Arriving at Hong Kong from Foreign Places
(Amendment) (No. 5) Regulation 2020

Explanatory Note

Paragraph 1

3

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 31 December 2020 to 31 March 2021.

Prevention and Control of Disease (Requirements and Directions) (Business and Premises) (Amendment) (No. 8) Regulation 2020

Section 1

1

Prevention and Control of Disease (Requirements and Directions) (Business and Premises) (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 9 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 section 3.

3. Section 14 amended (expiry)

Section 14—

Repeal

“December 2020”

Substitute

“March 2021”.

Prevention and Control of Disease (Requirements and Directions) (Business and Premises) (Amendment) (No. 8) Regulation 2020

2

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) to extend its expiry date from 31 December 2020 to 31 March 2021.

Prevention and Control of Disease (Prohibition on Group Gathering) (Amendment)
(No. 16) Regulation 2020

Section 1

1

**Prevention and Control of Disease (Prohibition on
Group Gathering) (Amendment) (No. 16) 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 9 December 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

“December 2020”

Substitute

“March 2021”.

Prevention and Control of Disease (Prohibition on Group Gathering) (Amendment)
(No. 16) Regulation 2020

2

Clerk to the Executive Council

COUNCIL CHAMBER

2020

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 December 2020 to 31 March 2021.

Prevention and Control of Disease (Regulation of Cross-boundary Conveyances
and Travellers) (Amendment) (No. 2) Regulation 2020

Section 1

1

**Prevention and Control of Disease (Regulation of Cross-
boundary Conveyances and Travellers) (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 9 December 2020.

**2. Prevention and Control of Disease (Regulation of Cross-
boundary Conveyances and Travellers) Regulation amended**

The Prevention and Control of Disease (Regulation of Cross-
boundary Conveyances and Travellers) Regulation (Cap. 599 sub.
leg. H) is amended as set out in section 3.

3. Section 9 amended (expiry)

Section 9—

Repeal

“December 2020”

Substitute

“March 2021”.

Prevention and Control of Disease (Regulation of Cross-boundary Conveyances
and Travellers) (Amendment) (No. 2) Regulation 2020

2

Clerk to the Executive Council

COUNCIL CHAMBER

2020

Explanatory Note

This Regulation amends the Prevention and Control of Disease (Regulation of Cross-boundary Conveyances and Travellers) Regulation (Cap. 599 sub. leg. H) to extend its expiry date from 31 December 2020 to 31 March 2021.

Prevention and Control of Disease (Wearing of Mask) (Amendment) (No. 4)
Regulation 2020

Section 1

1

**Prevention and Control of Disease (Wearing of Mask)
(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 9 December 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 7 amended (expiry)

Section 7—

Repeal

“December 2020”

Substitute

“March 2021”.

Prevention and Control of Disease (Wearing of Mask) (Amendment) (No. 4)
Regulation 2020

2

Clerk to the Executive Council

COUNCIL CHAMBER

2020

Prevention and Control of Disease (Wearing of Mask) (Amendment) (No. 4)
Regulation 2020

Explanatory Note
Paragraph 1

3

Explanatory Note

This Regulation amends the Prevention and Control of Disease (Wearing of Mask) Regulation (Cap. 599 sub. leg. I) to extend its expiry date from 31 December 2020 to 31 March 2021.

Prevention and Control of Disease (Compulsory Testing for Certain Persons)
(Amendment) (No. 2) Regulation 2020

i

**Prevention and Control of Disease (Compulsory Testing
for Certain Persons) (Amendment) (No. 2) Regulation
2020**

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(Amendment) (No. 2) Regulation 2020

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Prevention and Control of Disease (Compulsory Testing for Certain Persons) (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 9 December 2020.

2. Prevention and Control of Disease (Compulsory Testing for Certain Persons) Regulation amended

The Prevention and Control of Disease (Compulsory Testing for Certain Persons) Regulation (Cap. 599 sub. leg. J) is amended as set out in sections 3 to 13.

3. Section 2 amended (interpretation)

(1) Section 2(1), definition of *function*—

Repeal

“power”

Substitute

“a power and a duty”.

(2) Section 2(1), definition of *prescribed officer*, paragraph (a)—

Repeal

“a failure to comply with”.

(3) Section 2(1), definition of *prescribed officer*, paragraph (a)(ii)—

Repeal

“; or”

Substitute a semicolon.

- (4) Section 2(1), definition of *prescribed officer*, paragraph (b)—

Repeal

“failure of a person who falls within a category or description of persons specified under section 10(1)(a) to comply with a requirement under a compulsory testing notice”

Substitute

“requirement under a compulsory testing notice in which a category or description of persons is specified”.

- (5) Section 2(1), definition of *prescribed officer*, paragraph (b)(ii)—

Repeal the semicolon

Substitute

“; or”.

- (6) Section 2(1), definition of *prescribed officer*, after paragraph (b)—

Add

“(c) in relation to a function under Part 4A concerning a restriction-testing declaration, means—

- (i) a health officer;
- (ii) a police officer; or
- (iii) a public officer appointed under section 19B(6) for performing a function under that Part concerning the declaration;”.

- (7) Section 2(1)—

Add in alphabetical order

“*restriction-testing declaration* (限制與檢測宣告) means a declaration made under section 19B(1);”.

4. **Section 3 amended (Secretary may issue notice)**

Section 3(1)(c)—

Repeal

“a failure to comply with”.

5. **Section 4 amended (compulsory testing direction for persons clinically suspected to have contracted specified disease)**

- (1) Section 4(4)(a)—

Repeal

“; and”

Substitute

“(test result);”.

- (2) Section 4(4)(b)—

Repeal the full stop

Substitute

“; and”.

- (3) After section 4(4)(b)—

Add

“(c) for preventing, protecting against, delaying or otherwise controlling the incidence or transmission of the specified disease—

- (i) may specify any reasonable requirement that the person must comply with until the test result is ascertained; and

- (ii) without limiting subparagraph (i), may require the person not to leave or enter a particular place without the permission of a prescribed officer until the test result is ascertained.”.

6. **Section 10 amended (Secretary may issue compulsory testing notice)**

- (1) Section 10(1)(c)(ii)—

Repeal

“a failure to comply with”.

- (2) Section 10(3)(b)—

Repeal

“; and”

Substitute

“(test result);”.

- (3) Section 10(3)(c)—

Repeal the full stop

Substitute

“; and”.

- (4) After section 10(3)(c)—

Add

“(d) for preventing, protecting against, delaying or otherwise controlling the incidence or transmission of the specified disease—

- (i) may specify any reasonable requirement that the specified person must comply with until the test result is ascertained; and

- (ii) without limiting subparagraph (i), may require the person not to leave or enter a particular place without the permission of a prescribed officer until the test result is ascertained.”.

7. **Section 14 amended (compulsory testing order for non-compliance with compulsory testing direction or compulsory testing notice)**

After section 14(3)—

Add

“(3A) For preventing, protecting against, delaying or otherwise controlling the incidence or transmission of the specified disease, a compulsory testing order—

- (a) may specify any reasonable requirement that the person must comply with until the result of the test mentioned in subsection (2) (*test result*) is ascertained; and

- (b) without limiting paragraph (a), may require the person not to leave or enter a particular place without the permission of a prescribed officer until the test result is ascertained,

whether or not such a requirement has been imposed on the person under section 4(4)(c) or 10(3)(d).”.

8. **Provisions repealed**

The Regulation—

Repeal everything after section 16 and before section 18.

9. Section 18 amended (power to demand certain information from persons believed to be target persons)

- (1) Section 18, heading—

Repeal

“target persons”

Substitute

“persons on whom compulsory testing order may be served”.

- (2) Section 18(1)—

Repeal

“person is a target person, the officer may, for ascertaining whether the person is a target person”

Substitute

“compulsory testing order may be served on a person under section 14(2), the officer may, for ascertaining whether that is the case”.

10. Section 19 amended (power to demand information)

- (1) Section 19, heading, after “information”—

Add

“for exercising power under section 14(2)”.

- (2) Section 19(1)(a)(ii)(B)—

Repeal

“who is a target person”

Substitute

“on whom a compulsory testing order may be served under that section”.

- (3) Section 19—

Repeal subsection (2).

- (4) Section 19(3)—

Repeal

“or (2)”.

- (5) Section 19(4)—

Repeal

everything after “establish”

Substitute

“that—

- (a) the person had reasonable excuse for the failure to comply with the requirement; or
- (b) without limiting paragraph (a), the information required to be provided was not within the knowledge, in the possession or under the control of the person, and could not reasonably have been ascertained or obtained by the person.”.

- (6) Section 19(5)—

Repeal

“or (2)”.

- (7) Section 19—

Repeal subsection (6).

11. Provisions added

After section 19—

Add

“Part 4A

**Subjecting Certain Premises to Restriction and
Compulsory Testing for Persons on them**

19A. Interpretation (Part 4A)

In this Part—

effective period (有效期), in relation to a restriction-testing declaration, means the period—

- (a) beginning at the time when the declaration takes effect under section 19B(5); and
- (b) ending at the time when the declaration is revoked, or ceases to have effect, under section 19F;

manager (管理人), in relation to any premises, means the person who is responsible for the management or is in charge or control of the premises;

restricted person (受限人士) means a person—

- (a) who, when a restriction-testing declaration takes effect in relation to any premises under section 19B(5), is on the premises; or
- (b) who enters the premises during the effective period of the declaration,

but does not include a prescribed officer or a person specified under section 19M(3);

restricted premises (受限處所), subject to section 19G(4), means any premises in relation to which a restriction-testing declaration is in effect.

19B. Secretary may make restriction-testing declaration and make appointment

- (1) If the Secretary, having regard to the extent and pattern (whether general or specific) of the spread of the specified disease in Hong Kong and the need to alleviate the effects of that disease on the carrying out of social or economic activities in Hong Kong, is satisfied that the specified conditions are met under subsection (2) in relation to any premises, the Secretary may make, in relation to the premises, a declaration for the purposes of this Part.
- (2) For the purposes of subsection (1), the specified conditions are met in relation to any premises if—
 - (a) either or both of the following apply—
 - (i) a considerable number of persons who have recently contracted the specified disease have recently been present on the premises;
 - (ii) a person who has recently contracted that disease and who has recently been present on the premises is likely to have been in close proximity to a considerable number of other persons on the premises;
 - (b) accordingly, persons who are present on the premises—
 - (i) are, or are likely to be, being exposed to a significant risk of contracting that disease; or
 - (ii) have been, or are likely to have been, exposed to such a risk; and
 - (c) ascertaining, as soon and as extensively as practicable, whether the persons mentioned in paragraph (b) have contracted that disease is

necessary for preventing, protecting against, delaying or otherwise controlling the incidence or transmission of that disease.

- (3) A restriction-testing declaration made in relation to any premises must identify the premises, using maps or plans if necessary.
- (4) If a restriction-testing declaration is made in relation to any premises, the Secretary must cause a copy of the declaration to be displayed in a prominent position at or near every entrance to the premises.
- (5) A restriction-testing declaration takes effect immediately after a copy of the declaration is displayed under subsection (4).
- (6) The Secretary may in writing appoint any public officer for performing a function under this Part concerning a restriction-testing declaration.

19C. Exit restriction imposed by restriction-testing declaration

- (1) No restricted person may leave any restricted premises.
- (2) Subsection (1) does not apply to a restricted person if—
 - (a) the person has lawful authority or reasonable excuse for leaving the restricted premises; or
 - (b) without limiting paragraph (a)—
 - (i) the person has to receive urgent medical treatment (whether or not for the specified disease); or
 - (ii) the person's continued stay on the premises would cause unreasonable hardship to the person or any other person,

and the restricted person has met the conditions specified in subsection (3).

- (3) The conditions specified for subsection (2) are—
 - (a) the person has complied with a requirement made of the person under section 19E(1);
 - (b) the person has provided to a prescribed officer the personal particulars, address and means of contact of the person; and
 - (c) the person has complied with any direction that a prescribed officer may reasonably consider necessary to make for preventing, protecting against, delaying or otherwise controlling the transmission of the specified disease within or from the restricted premises.
- (4) Subsection (1) does not apply to a restricted person who is travelling from the restricted premises to a place designated under section 19G(2) in relation to the premises in compliance with a direction made under that section.
- (5) A restricted person who contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 4 and to imprisonment for 6 months.
- (6) In criminal proceedings for an offence under subsection (5)—
 - (a) the burden of establishing the matter mentioned in subsection (2)(a) or (b)(i) or (ii) lies on the restricted person; and
 - (b) the person is taken to have established the matter mentioned in paragraph (a) if—

- (i) there is sufficient evidence to raise an issue with respect to that matter; and
- (ii) the contrary is not proved by the prosecution beyond reasonable doubt.

19D. Entry restriction imposed by restriction-testing declaration

- (1) No person other than a prescribed officer or a person specified under section 19M(3) may enter any restricted premises.
- (2) Subsection (1) does not apply to a person if—
 - (a) the person is a resident of the restricted premises;
 - (b) the person has lawful authority or reasonable excuse for entering the premises; or
 - (c) without limiting paragraph (b), the person's not entering the premises would cause unreasonable hardship to the person or any other person,and the person has met the conditions specified in subsection (3).
- (3) The conditions specified for subsection (2) are—
 - (a) the person has acknowledged in writing the person's awareness that—
 - (i) the person becomes a restricted person on entering the premises; and
 - (ii) this Part applies to the person accordingly; and
 - (b) the person has complied with any direction that a prescribed officer may reasonably consider necessary to make for preventing, protecting against, delaying or otherwise controlling the

transmission of the specified disease within or from the restricted premises.

- (4) For the purposes of subsection (2), a person is exempt from meeting the condition specified in subsection (3)(a) if the prescribed officer reasonably considers that because of the person's age or physical or mental condition, the person is incapable of making the acknowledgement mentioned in subsection (3)(a) or appreciating its meaning.
- (5) Subsection (1) does not apply to a restricted person's entry into a place designated under section 19G(2) in compliance with a direction made under that section.
- (6) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 4 and to imprisonment for 6 months.
- (7) In criminal proceedings for an offence under subsection (6)—
 - (a) the burden of establishing the matter mentioned in subsection (2)(a), (b) or (c) lies on the person; and
 - (b) the person is taken to have established the matter mentioned in paragraph (a) if—
 - (i) there is sufficient evidence to raise an issue with respect to that matter; and
 - (ii) the contrary is not proved by the prosecution beyond reasonable doubt.

19E. Power to require test

- (1) During the effective period of a restriction-testing declaration, a prescribed officer may require any restricted person found on the restricted premises to

- undergo a specified test in accordance with the instructions given by a prescribed officer.
- (2) A restricted person who fails to comply with a requirement made under subsection (1) commits an offence unless—
- (a) the person has lawful authority or reasonable excuse for the failure to comply with the requirement; or
- (b) without limiting paragraph (a), the person cannot comply with the requirement because of any physical or mental illness, impairment or disability.
- (3) A person who is convicted of an offence under subsection (2) is liable to a fine at level 4 and to imprisonment for 6 months.
- (4) In criminal proceedings for an offence under subsection (2)—
- (a) the burden of establishing the matter mentioned in subsection (2)(a) or (b) lies on the restricted person; and
- (b) the person is taken to have established the matter mentioned in paragraph (a) if—
- (i) there is sufficient evidence to raise an issue with respect to the matter; and
- (ii) the contrary is not proved by the prosecution beyond reasonable doubt.

19F. Revocation and expiry of restriction-testing declaration

- (1) The Secretary may revoke a restriction-testing declaration if—
- (a) the Secretary is satisfied that the results of all the specified tests conducted on those restricted persons

- who have been found, and who are remaining, on the restricted premises have been ascertained; or
- (b) the Secretary, having regard to all the circumstances, is satisfied that revoking the declaration serves the public interest of Hong Kong.
- (2) A revocation under subsection (1) must be signified and published in a way the Secretary considers appropriate.
- (3) A restriction-testing declaration that is not revoked under subsection (1) ceases to have effect on the expiry of 7 days after the date on which the declaration takes effect under section 19B(5).

19G. Secretary may direct restricted persons to be transferred to designated place

- (1) The Secretary may exercise the power under subsection (2) if the Secretary is satisfied that exercising the power is necessary for preventing, protecting against, delaying or otherwise controlling the transmission of the specified disease within or from any restricted premises.
- (2) The Secretary may at any time during the effective period of the restriction-testing declaration direct that every restricted person found on the restricted premises, or every such person who falls within a category or description specified by the Secretary, is to, as soon as reasonably practicable after the direction is made, be transferred to a place outside the premises designated by the Secretary (*designated place*).
- (3) A direction made under subsection (2) must be signified and published in a way the Secretary considers appropriate.

- (4) If a designated place is designated in relation to any restricted premises, the place is to be regarded, for the purposes of this Regulation (except section 19J), as a part of the premises.
- (5) A direction made under subsection (2) does not apply to a restricted person if—
 - (a) the person has lawful authority or reasonable excuse for staying on the restricted premises from which the person is required to be transferred under the direction; or
 - (b) without limiting paragraph (a), the person's not staying on the premises would cause unreasonable hardship to the person or any other person.
- (6) A restricted person who fails to comply with a direction made under subsection (2) commits an offence and is liable on conviction to a fine at level 4 and to imprisonment for 6 months.
- (7) In criminal proceedings for an offence under subsection (6)—
 - (a) the burden of establishing the matter mentioned in subsection (5)(a) or (b) lies on the restricted person; and
 - (b) the person is taken to have established the matter mentioned in paragraph (a) if—
 - (i) there is sufficient evidence to raise an issue with respect to that matter; and
 - (ii) the contrary is not proved by the prosecution beyond reasonable doubt.

19H. Power to regulate movement in restricted premises etc.

- (1) For the purpose of reducing contact among restricted persons during the effective period of a restriction-testing declaration, a prescribed officer may require a restricted person to stay in a particular area on the restricted premises unless permitted by a prescribed officer.
- (2) A prescribed officer may also impose any other requirement on a restricted person during the effective period if the officer reasonably considers it necessary and proportionate for preventing, protecting against, delaying or otherwise controlling the transmission of the specified disease within or from the restricted premises.
- (3) A requirement made under subsection (1) or (2) does not apply to a restricted person if—
 - (a) the person has lawful authority or reasonable excuse for not complying with the requirement; or
 - (b) without limiting paragraph (a), the person's complying with the requirement would cause unreasonable hardship to the person or any other person.
- (4) A restricted person who fails to comply with a requirement made under subsection (1) or (2) commits an offence and is liable on conviction to a fine at level 4 and to imprisonment for 6 months.
- (5) In criminal proceedings for an offence under subsection (4)—
 - (a) the burden of establishing the matter mentioned in subsection (3)(a) or (b) lies on the restricted person; and

- (b) the person is taken to have established the matter mentioned in paragraph (a) if—
 - (i) there is sufficient evidence to raise an issue with respect to that matter; and
 - (ii) the contrary is not proved by the prosecution beyond reasonable doubt.

19I. Power to detain or remove persons

- (1) If a prescribed officer reasonably considers it necessary and proportionate to ensure compliance with this Part, the officer—
 - (a) may detain a restricted person in a particular area of the restricted premises; or
 - (b) may remove a person.
- (2) A police officer may use reasonable force in exercising a power under subsection (1).

19J. Power to enter and inspect premises

- (1) If a magistrate is satisfied by information on oath that there are reasonable grounds for suspecting that—
 - (a) there is a person on any premises (*target premises*) that constitute or form part of any restricted premises; and
 - (b) the person has, by refusing or neglecting to enable access to the target premises by a prescribed officer who is performing a function under this Part, delayed or hindered the officer in contravention of section 21,the magistrate may issue a warrant in respect of the target premises.

- (2) The warrant may authorize a prescribed officer to—
 - (a) break into and forcibly enter the target premises and inspect and search the target premises; and
 - (b) require any person present on the target premises to provide the officer with any assistance that the officer reasonably considers necessary to enable the officer to perform a function under this Part.
- (3) However, a police officer of or above the rank of superintendent may do an act specified in subsection (2)(a) or (b) without warrant if the officer is satisfied that—
 - (a) there are reasonable grounds for suspecting that a person on any target premises has, by refusing or neglecting to enable access to the target premises by a prescribed officer who is performing a function under this Part, delayed or hindered the prescribed officer in contravention of section 21;
 - (b) it is necessary to do the act for ensuring compliance with that section; and
 - (c) either or both of the following apply—
 - (i) doing the act without delay is necessary for preventing, protecting against, delaying or otherwise controlling the transmission of the specified disease within or from the restricted premises;
 - (ii) it is not reasonably practicable to make an application for the warrant in the circumstances of the case.

19K. Power to demand information or assistance

- (1) A prescribed officer may, for performing a function under this Part (including the ascertaining of whether or not a requirement is imposed by or under this Part on a particular person), require any person (*inquired person*) to provide any information if—
 - (a) the officer has reason to believe that the information is within the knowledge, in the possession or under the control of the inquired person; and
 - (b) it is not reasonably practicable to perform the function if the information is not obtained.
- (2) A prescribed officer may require a manager, owner or occupier of any restricted premises to provide the officer with any assistance that the officer reasonably considers necessary to enable the officer to perform a function under this Part.
- (3) A person who fails to comply with a requirement made under subsection (1) or (2) commits an offence and is liable on conviction to a fine at level 3.
- (4) It is a defence for a person charged under subsection (3) to establish that—
 - (a) for a failure to comply with a requirement made under subsection (1)—
 - (i) the person had reasonable excuse for the failure to comply with the requirement; or
 - (ii) without limiting subparagraph (i), the information required to be provided was not within the knowledge, in the possession or under the control of the person, and could not

reasonably have been ascertained or obtained by the person; or

- (b) for a failure to comply with a requirement made under subsection (2)—the person had reasonable excuse for the failure to comply with the requirement.
- (5) A person who, in purported compliance with a requirement made under subsection (1), knowingly or recklessly provides any information that is false or misleading in a material particular commits an offence and is liable on conviction to a fine at level 3.

19L. Functions related to vulnerable persons

- (1) A prescribed officer may only exercise a power under this Part in relation to a vulnerable person if the officer reasonably considers that it is in the best interests of the person to do so.
- (2) A prescribed officer may require a responsible person for a vulnerable person to use the responsible person's best endeavours to ensure that the vulnerable person complies with a requirement imposed by or under this Part.
- (3) A person who 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) It is a defence for a person charged under subsection (3) to establish that the person had reasonable excuse for the failure to comply with the requirement.
- (5) A prescribed officer may only exercise a power under section 19E in relation to a vulnerable person in the presence of—
 - (a) a responsible person for the vulnerable person; or

- (b) if the vulnerable person is not accompanied by a responsible person for the vulnerable person—an adult (not being a prescribed officer or a person specified under section 19M(3)) whom the officer reasonably considers to be appropriate, having regard to any views of the vulnerable person.
- (6) If a prescribed officer may exercise a power under this Part in relation to a vulnerable person but the vulnerable person is not accompanied by a responsible person for the vulnerable person, the officer must, if the power is exercised—
 - (a) if reasonably practicable—contact a responsible person for the vulnerable person before the power is exercised; or
 - (b) if that is not reasonably practicable—take reasonable steps after the power is exercised to contact a responsible person for the vulnerable person and inform the responsible person of the exercise of the power.

(7) In this section—

child (兒童) means a person who is under the age of 10;

mentally incapacitated person (精神上無行為能力的人) means a person who is mentally disordered, or mentally handicapped, within the meaning of the Mental Health Ordinance (Cap. 136);

responsible person (負責人), in relation to a vulnerable person, means—

- (a) a father or mother of the person, including an adoptive father, adoptive mother, stepfather or stepmother;

- (b) the following person—
 - (i) for a child—a person who is assuming guardianship of the child under the Guardianship of Minors Ordinance (Cap. 13); or
 - (ii) for a mentally incapacitated person—a guardian of the person within the meaning of the Mental Health Ordinance (Cap. 136); or
- (c) any other person who has the custody or care of the vulnerable person, such as a domestic helper, or a relative of the vulnerable person, who has such a custody or care;

vulnerable person (需照顧者) means—

- (a) a child; or
- (b) a mentally incapacitated person.

19M. General provisions on performance of functions

- (1) A prescribed officer must, if so required, produce written proof of the officer's appointment before performing a function under this Part.
- (2) A prescribed officer must not perform a function under this Part in a way that is more restrictive or onerous than is necessary for preventing, protecting against, delaying or otherwise controlling the transmission of the specified disease within or from the restricted premises.
- (3) If a prescribed officer reasonably considers that a function under this Part may be performed by doing an act that does not involve the use of force, that act may be done by a person specified by the officer.

19N. Duty to ensure supply of basic necessities

During the effective period of a restriction-testing declaration (other than the first 12 hours of the period), the Government must ensure that every restricted person found on the restricted premises is provided with any basic necessities (including goods and services) that the Government reasonably considers appropriate.

Part 5

General Enforcement Powers

19O. Power to demand information for suspected offences

- (1) If a prescribed officer has reason to believe that a person has committed an offence under this Regulation, the officer may, for issuing or serving a summons or other document in relation to the offence, require the person to—
 - (a) provide 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.
- (2) A person who fails to comply with a requirement made under subsection (1) commits an offence and is liable on conviction to a fine at level 3.
- (3) It is a defence for a person charged under subsection (2) to establish that the person had reasonable excuse for the failure to comply with the requirement.

- (4) A person who, in purported compliance with a requirement made under subsection (1), knowingly or recklessly provides any information that is false or misleading in a material particular 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 meaning given by section 17B of the Immigration Ordinance (Cap. 115)."

12. Section 22 amended (specified test not to be more intrusive or invasive than necessary)

Section 22—

Repeal

"10 or 14"

Substitute

"10, 14 or 19E".

13. Section 25 amended (defence)

Section 25, after "19(4)"—

Add

", 19K(4), 19L(4), 19O(3)".

14. Section 27 amended (appointment of public officer or member of Auxiliary Medical Service)

Section 27—

Repeal

"3(1)(c) or 10(1)(c)(ii)"

Substitute

"3(1)(c), 10(1)(c)(ii) or 19B(6)".

Clerk to the Executive Council

COUNCIL CHAMBER

2020

Explanatory Note

This Regulation amends the Prevention and Control of Disease (Compulsory Testing for Certain Persons) Regulation (Cap. 599 sub. leg. J) by—

- (a) adding a new Part 4A and making consequential amendments for the addition; and
 - (b) adding provisions that empower a compulsory testing direction, compulsory testing notice or compulsory testing order to specify certain requirements that a person must comply with until the person's test result for the coronavirus disease 2019 (COVID-19) is ascertained.
2. Under the new Part 4A, the Secretary for Food and Health may, by making a restriction-testing declaration, subject certain premises to restriction. Persons who are on, or have entered, the premises are generally required to stay on the premises, or a designated place to which they have been transferred, until their test results for the coronavirus disease 2019 are ascertained. Specifically, the new Part 4A—
- (a) empowers the Secretary for Food and Health to make a restriction-testing declaration in relation to certain premises if the Secretary for Food and Health is satisfied that certain conditions are met in relation to the premises (new section 19B);
 - (b) imposes exit and entry restrictions for the premises (new sections 19C and 19D);
 - (c) empowers prescribed officers to require persons found on the premises to undergo tests for the coronavirus disease 2019 in accordance with the officers' instructions (new section 19E);

- (d) provides for the conditions under which the declaration may be revoked and its maximum effective period (new section 19F);
- (e) empowers the Secretary for Food and Health to direct persons on the premises to be transferred to a designated place and provides for the compliance with the direction (new section 19G);
- (f) confers certain powers on prescribed officers to enforce the declaration (new sections 19H to 19K);
- (g) provides for the performance of functions of prescribed officers, both in relation to children and mentally incapacitated persons and generally (new sections 19L and 19M); and
- (h) provides for the Government's duty to ensure that persons on the premises are supplied with basic necessities where the premises have been subject to restriction for 12 hours or more (new section 19N).