

LEGISLATIVE COUNCIL BRIEF

Prevention and Control of Disease Ordinance (Cap. 599)

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

INTRODUCTION

At the meeting of the Executive Council on 23 December 2020, the Council **ADVISED** and the Chief Executive **ORDERED** that the following three 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 **Compulsory Quarantine of Certain Persons Arriving at Hong Kong (Amendment) (No. 9) Regulation 2020** (at Annex A), which amended the Compulsory Quarantine of Certain Persons Arriving at Hong Kong Regulation (Cap. 599C) to –

- (i) empower the Secretary for Food and Health (“SFH”) to specify the period for which persons who arrive at Hong Kong from a place in China other than Hong Kong and who have stayed in a certain place in China or a certain foreign place for a certain period immediately before their arrival at Hong Kong would need to undergo quarantine having regard to the extent and pattern of the spread of the disease in that place as well as the public health risk posed to Hong Kong by those persons. SFH may specify different periods for different categories of persons and such a specified period must not exceed 28 days;
- (ii) empower SFH to specify the period during which such a person has stayed in a certain place in China or a certain foreign place before his or her arrival in Hong Kong for determining whether the person has to be subject to quarantine requirements. SFH may specify different periods for different places. Such a specified period must not exceed 28 days; and

Annex A

- (iii) amend the relevant criterion under which a quarantine order may be cancelled for a person arriving from the Mainland or Macao such that the person would need to complete a quarantine of a period that is not shorter than the period applicable to him/her under the quarantine order.

Annex B

- (b) the **Compulsory Quarantine of Persons Arriving at Hong Kong from Foreign Places (Amendment) (No. 6) Regulation 2020** (at Annex B), which amended the Compulsory Quarantine of Persons Arriving at Hong Kong from Foreign Places Regulation (Cap. 599E) to empower SFH to –

- (i) specify the period for which persons who arrive at Hong Kong from a place outside China and who have stayed in a certain foreign place or a certain place in China for a certain period immediately before their arrival at Hong Kong would need to undergo quarantine having regard to the extent and pattern of the spread of the disease in that place as well as the public health risk posed to Hong Kong by those persons. SFH may specify different periods for different categories of persons and such a specified period must not exceed 28 days; and
- (ii) specify the period during which such a person has stayed in a certain foreign place or a certain place in China before his or her arrival in Hong Kong for determining whether the person has to be subject to quarantine requirements. SFH may specify different periods for different places. Such a specified period must not exceed 28 days; and

Annex C

- (c) the **Prevention and Control of Disease (Regulation of Cross-Boundary Conveyances and Travellers) (Amendment) (No. 3) Regulation 2020** (at Annex C), which amended the Prevention and Control of Disease (Regulation of Cross-Boundary Conveyances and Travellers) Regulation (Cap. 599H) to empower SFH to specify the period during which a person has stayed at a particular place for determining whether the person has to be subject to the requirements imposed by SFH under Cap. 599H. SFH may specify different periods for different places. Such a specified period must not exceed 28 days.

PRESENT POSITION AND CONSIDERATION

Epidemic Situation

2. The local epidemic situation remained severe. The fourth wave of the epidemic had shown no sign of subsiding and the 7-day moving average

number of local cases had stayed stubbornly high, at above 80 cases except for one day in the previous two weeks. More notably, the same trend was observed for the 7-day moving average number of local cases with unknown sources, with such number at above 29 except for one day in the previous two weeks.

3. The situation on the Mainland remained stable, with 31 local cases reported in the preceding two weeks (6 to 19 December 2020) and sporadic clusters reported in different provinces/regions. During the same period, no local cases were reported in Guangdong Province.

4. Globally, the situation was dire, with the number of new cases as well as deaths on the rise. In particular, the United Kingdom (“UK”) had faced a rapid increase in cases in the South East England, leading to epidemiological and virological investigations which resulted in the identification of a new variant of the virus. While it was known and expected that viruses constantly change through mutation leading to the emergence of variants, preliminary analysis suggested that this variant was significantly more transmissible than previously circulating variants, with an estimated increased transmissibility of about 70%. This new variant had emerged at a time of the year when there had traditionally been increased family and social gatherings.

5. With the fourth wave of the epidemic having reached a long plateau in Hong Kong, while there was no indication at this point of increased infection severity, higher mortality or longer incubation associated with the new variant, higher transmissibility of the variant means its introduction into Hong Kong and its spread in the community may likely result in extensive outbreaks which would take their heavy toll on the entire society, in terms of loss of lives, impact on the integrity of the healthcare system, as well as that on the economy and would jeopardise the epidemic control efforts in the past month or so.

Legal Framework Underpinning Border Control Measures

6. 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. The aforementioned periods of 14 days were determined having regard to the incubation period of the coronavirus disease (“COVID-19”), which is the time between catching the virus and beginning to have symptoms of the disease. At the time, most estimates of the incubation period for COVID-19

ranged from one to 14 days, most commonly around 5 days. Cap. 599C was subsequently amended to, inter alia, expand the scope to cover returnees from the entire China (i.e. the Mainland, Macao and Taiwan) and to empower health officers to cancel the compulsory testing orders in respect of arrivals from the Mainland or Macao who have fulfilled certain criteria, including having completed on the day of arrival or the day before a quarantine of not less than 14 days and are tested negative for COVID-19.

7. 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.

8. Having regard to the rising number of imported cases then as well as the limited capacity of our quarantine facilities, we introduced Cap. 599H in mid-July 2020 to empower SFH to impose testing and returning conditions on travellers coming to Hong Kong from specified places to reduce the health risk they may bring to Hong Kong. Since then, we have been requiring inbound travellers who have stayed in certain specified places to provide documents showing a negative COVID-19 testing result and hotel room reservation (or reservation at a designated quarantine hotel starting from 22 December 2020) before he/she is allowed to board the aircraft. For travellers who have stayed in all other countries except China, we require them to provide document(s) showing hotel room reservation (or reservation at a designated quarantine hotel starting from 22 December 2020) before he/she is allowed to board the aircraft bound for Hong Kong.

THE MEASURES

9. According to the advice of members of the Expert Advisory Panel under the Steering Committee cum Command Centre in relation to the Novel Coronavirus Infection, a small proportion of patients may have incubation periods of longer than 14 days. With the emergence of new variant strain of COVID-19, it is necessary to detect early and prevent the spread of possible imported cases from the UK of the new variant strain. To this end, we considered it prudent to extend the quarantine period imposed under Cap. 599C and Cap. 599E on persons who have stayed in the UK to beyond 14 days. As a few cases with the new variant have to date been reported in Denmark, the Netherlands and Belgium, we have also allowed flexibility to extend the quarantine period for persons who have stayed in places other than the UK. As such, SFH is empowered to specify the exact duration of the quarantine period, up to 28 days, as well as the places to which such period applies having regard to the extent and pattern of the spread of the

disease in those places and the public health risk posed to Hong Kong by persons who arrive at Hong Kong having recently stayed there. The legislative amendments to Cap. 599C and Cap. 599E mirror each other.

10. Under Cap. 599C, Cap. 599E and Cap. 599H, quarantine and boarding requirements are imposed based on a person's travel history in the period covering the day of the person's arrival/boarding of the conveyance bound for Hong Kong and the preceding 14 days. In light of the possibility of the incubation period being longer than 14 days, we introduced more flexibility by empowering SFH to specify the period during which a person has stayed at a particular place for determining whether the person has to be subject to the requirements imposed by SFH under the three regulations.

11. Under Cap. 599C, there is a mechanism under which a quarantine order served on a person arriving from the Mainland or Macao may be cancelled if certain criteria are met, including completing a quarantine of not less than 14 days in the Mainland or Macao on the day of arrival or the day before, and having tested negative for COVID-19. Having regard to the amendments set out in paragraph 9 above to empower SFH to specify the period of quarantine for persons arriving at Hong Kong, the relevant provision in Cap. 599C was also amended such that those persons would need to complete a quarantine of a period that is not shorter than the period applicable to them under the quarantine order.

OTHER OPTIONS

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

THE AMENDMENT REGULATIONS

13. The main provisions of the three Amendment Regulations are set out in paragraph 1 above.

LEGISLATIVE TIMETABLE

14. The legislative timetable is as follows –

Publication in the Gazette	23 December 2020
Commencement	24 December 2020
Tabling at the Legislative Council	6 January 2021

IMPLICATIONS OF THE PROPOSAL

15. The proposal to amend the three regulations is in conformity with the Basic Law, including the provisions concerning human rights.

PUBLIC CONSULTATION

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

PUBLICITY

17. We gazetted the Amendment Regulations, announced them at a press conference and issued a press release on 23 December 2020. A spokesperson was also made available to respond to public or media enquiries.

BACKGROUND

18. 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 and 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.

19. 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.

20. 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.

ENQUIRIES

21. 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. 9) Regulation 2020

Section 1

1

**Compulsory Quarantine of Certain Persons Arriving at
Hong Kong (Amendment) (No. 9) Regulation 2020**

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

1. Commencement

This Regulation comes into operation on 24 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
sections 3 to 8.

3. Section 2 amended (interpretation)

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

Repeal

“the period of 14 days mentioned in section 3(1)”

Substitute

“a period specified under section 11A(1)”.

(2) Section 2—

Add in alphabetical order

“*Secretary* (局長) means the Secretary for Food and Health;”.

**4. Section 3 amended (compulsory quarantine of certain persons
arriving at Hong Kong)**

(1) Section 3(1)—

Compulsory Quarantine of Certain Persons Arriving at Hong Kong (Amendment)
(No. 9) Regulation 2020

Section 5

2

Repeal

“period of 14 days beginning”

Substitute

“quarantine period specified for the category of persons within
which the person falls that begins”.

(2) Section 3(9)—

Repeal the definition of *relevant period*

Substitute

“*relevant period* (有關期間), in relation to a place in which a
person who arrives at Hong Kong has stayed before the
arrival, means the day of arrival and a period specified
under section 11A(3) for that place that precedes the day
of arrival.”.

5. Section 10 amended (cancellation of quarantine order)

Section 10(1A)(b)—

Repeal

“of not less than 14 days administered by the authority”

Substitute

“administered by the authority of a period that is not shorter
than the quarantine period under the quarantine order”.

6. Section 11A added

After section 11—

Add

“11A. Secretary may specify quarantine period etc.

(1) For the purposes of section 3(1), the Secretary may, by
notice published in the Gazette, specify a period for

persons who arrive at Hong Kong from a place in China other than Hong Kong (*relevant persons*).

- (2) For the purposes of subsection (1), the Secretary may specify different periods for different categories of relevant persons.
- (3) For the purposes of the definition of *relevant period* in section 3(9), the Secretary may, by notice published in the Gazette, specify a period for a place in which any of the relevant persons has stayed before the arrival.
- (4) For the purposes of subsection (3), the Secretary may specify different periods for different places.
- (5) A period specified under subsection (1) or (3) must not exceed 28 days.
- (6) A notice published under subsection (1) or (3) is not subsidiary legislation.
- (7) Before exercising the power conferred by subsection (1) or (3), the Secretary must have regard to—
 - (a) the extent and pattern (whether general or specific) of the spread of the specified disease in the place—
 - (i) from which the relevant persons arrive; or
 - (ii) in which any of the relevant persons has stayed before the arrival; and
 - (b) the public health risk posed to Hong Kong by the relevant persons.”.

7. **Section 12 amended (Secretary for Food and Health may specify places in China and conditions)**

- (1) Section 12, heading—
Repeal

“for Food and Health”.

- (2) Section 12(1)—

Repeal

“for Food and Health (*Secretary*)”.

- (3) Section 12(4)(a), after “extent”—

Add

“and pattern (whether general or specific)”.

8. **Section 12A amended (Secretary for Food and Health may specify categories of persons)**

- (1) Section 12A, heading—

Repeal

“for Food and Health”.

- (2) Section 12A(1)—

Repeal

“for Food and Health (*Secretary*)”.

Clerk to the Executive Council

COUNCIL CHAMBER

2020

Explanatory Note

The Compulsory Quarantine of Certain Persons Arriving at Hong Kong Regulation (Cap. 599 sub. leg. C) (*principal Regulation*) provides that a person who arrives at Hong Kong from a place in China other than Hong Kong (*relevant person*) must be placed under quarantine for a certain period (*quarantine period*) beginning on the day of arrival if the relevant person has stayed in certain places in China or foreign places during the day of arrival and a certain period (*specified period*) that precedes the day of arrival. Currently, both the quarantine period and the specified period are 14 days.

2. This Regulation amends the principal Regulation to empower the Secretary for Food and Health (*Secretary*) to specify—
 - (a) different quarantine periods for different categories of relevant persons; and
 - (b) different specified periods for different places in which any of the relevant persons has stayed before the arrival.
3. A quarantine period or specified period so specified must not exceed 28 days.
4. The Regulation also tightens one of the conditions for cancellation of a quarantine order under section 10(1A) of the principal Regulation so that a person against whom a quarantine order is made must produce a certificate issued by a public authority in the Mainland or Macao certifying that the person completed, on the day of the person's arrival at Hong Kong or the day before, a quarantine of a period that is not shorter than the quarantine period under the order.
5. The Regulation also revises the factors to which the Secretary must have regard before exercising the powers under section 12 of the principal Regulation so that the Secretary must also have regard to

the pattern (whether general or specific) of the spread of the coronavirus disease 2019 (COVID-19) in a place.

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

Section 1

1

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

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

1. **Commencement**
This Regulation comes into operation on 24 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 sections 3 to 7.
3. **Section 2 amended (interpretation)**
 - (1) Section 2, definition of *quarantine period*—
Repeal
“the period of 14 days mentioned in section 3(1)”
Substitute
“a period specified under section 11A(1)”.
 - (2) Section 2—
Add in alphabetical order
“*Secretary* (局長) means the Secretary for Food and Health;”.

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

Section 4

2

4. **Section 3 amended (compulsory quarantine of certain persons arriving at Hong Kong)**
 - (1) Section 3(1)—
Repeal
“period of 14 days beginning”
Substitute
“quarantine period specified for the category of persons within which the person falls that begins”.
 - (2) Section 3(8)—
Repeal the definition of *relevant period*
Substitute
“*relevant period* (有關期間), in relation to a place in which a person who arrives at Hong Kong has stayed before the arrival, means the day of arrival and a period specified under section 11A(3) for that place that precedes the day of arrival.”.
5. **Section 11A added**
After section 11—
Add
“11A. **Secretary may specify quarantine period etc.**
 - (1) For the purposes of section 3(1), the Secretary may, by notice published in the Gazette, specify a period for persons who arrive at Hong Kong from a place outside China (*relevant persons*).
 - (2) For the purposes of subsection (1), the Secretary may specify different periods for different categories of relevant persons.

- (3) For the purposes of the definition of *relevant period* in section 3(8), the Secretary may, by notice published in the Gazette, specify a period for a place in which any of the relevant persons has stayed before the arrival.
- (4) For the purposes of subsection (3), the Secretary may specify different periods for different places.
- (5) A period specified under subsection (1) or (3) must not exceed 28 days.
- (6) A notice published under subsection (1) or (3) is not subsidiary legislation.
- (7) Before exercising the power conferred by subsection (1) or (3), the Secretary must have regard to—
 - (a) the extent and pattern (whether general or specific) of the spread of the specified disease in the place—
 - (i) from which the relevant persons arrive; or
 - (ii) in which any of the relevant persons has stayed before the arrival; and
 - (b) the public health risk posed to Hong Kong by the relevant persons.”.

6. **Section 12 amended (Secretary for Food and Health may specify foreign places and conditions)**

- (1) Section 12, heading—
Repeal
“for Food and Health”.
- (2) Section 12(1)—
Repeal
“for Food and Health (*Secretary*)”.

- (3) Section 12(4)(a), after “extent”—
Add
“and pattern (whether general or specific)”.
7. **Section 12A amended (Secretary for Food and Health may specify categories of persons)**
 - (1) Section 12A, heading—
Repeal
“for Food and Health”.
 - (2) Section 12A(1)—
Repeal
“for Food and Health (*Secretary*)”.

Clerk to the Executive Council

COUNCIL CHAMBER

2020

Explanatory Note

The Compulsory Quarantine of Persons Arriving at Hong Kong from Foreign Places Regulation (Cap. 599 sub. leg. E) (*principal Regulation*) provides that a person who arrives at Hong Kong from a place outside China (*relevant person*) must be placed under quarantine for a certain period (*quarantine period*) beginning on the day of arrival if the relevant person has stayed in certain foreign places or places in China during the day of arrival and a certain period (*specified period*) that precedes the day of arrival. Currently, both the quarantine period and the specified period are 14 days.

2. This Regulation amends the principal Regulation to empower the Secretary for Food and Health (*Secretary*) to specify—
 - (a) different quarantine periods for different categories of relevant persons; and
 - (b) different specified periods for different places in which any of the relevant persons has stayed before the arrival.
3. A quarantine period or specified period so specified must not exceed 28 days.
4. The Regulation also revises the factors to which the Secretary must have regard before exercising the powers under section 12 of the principal Regulation so that the Secretary must also have regard to the pattern (whether general or specific) of the spread of the coronavirus disease 2019 (COVID-19) in a place.

Prevention and Control of Disease (Regulation of Cross-boundary Conveyances and Travellers) (Amendment) (No. 3) Regulation 2020

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

1. Commencement

This Regulation comes into operation on 24 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 sections 3 and 4.

3. Section 2 amended (interpretation)

(1) Section 2(1), definition of *relevant traveller*, paragraph (a)—

Repeal

“the 14 days”

Substitute

“a specified period”.

(2) Section 2(1)—

Add in alphabetical order

“*specified period* (指明期間), in relation to a specified place in which a person who falls within paragraph (a) of the definition of *relevant traveller* has stayed, means a period specified under section 5(2A) for that place;”.

4. Section 5 amended (Secretary for Food and Health may specify conditions, places and types of persons)

(1) Section 5, heading, after “places”—

Add

“, periods”.

(2) After section 5(2)—

Add

“(2A) For the purposes of the definition of *specified period* in section 2(1), the Secretary may, by notice published in the Gazette, specify a period for a specified place in which a person who falls within paragraph (a) of the definition of *relevant traveller* in that section has stayed.

(2B) For the purposes of subsection (2A), the Secretary may specify different periods for different places.

(2C) A period specified under subsection (2A) must not exceed 28 days.”.

(3) Section 5(4), after “(2)”—

Add

“, (2A)”.

(4) Section 5(5), after “(1)”—

Add

“, (2A)”.

(5) Section 5(5)(a), after “extent”—

Add

“and pattern (whether general or specific)”.

COUNCIL CHAMBER

2020

Clerk to the Executive Council

Explanatory Note

The definition of *relevant traveller* in section 2(1) of the Prevention and Control of Disease (Regulation of Cross-boundary Conveyances and Travellers) Regulation (Cap. 599 sub. leg. H) (*principal Regulation*) includes a person on a certain conveyance who, on the day on which the person boarded the conveyance or during a certain period (*specified period*) before that day, has stayed in a place specified by the Secretary for Food and Health (*Secretary*) under section 5(3) of the principal Regulation (*specified place*). Currently, the specified period is 14 days.

2. This Regulation amends the principal Regulation to empower the Secretary to specify different specified periods for different specified places.
3. A specified period so specified must not exceed 28 days.
4. The Regulation also revises the factors to which the Secretary must have regard before exercising the powers under section 5 of the principal Regulation so that the Secretary must also have regard to the pattern (whether general or specific) of the spread of the coronavirus disease 2019 (COVID-19) in a place.