

**L.N. 222 of 2020**

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

**Contents**

Section Page

**Part 1**

**Preliminary**

- 1. Commencement .....B3601
- 2. Prevention and Control of Disease (Requirements and Directions) (Business and Premises) Regulation amended.....B3601

**Part 2**

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

- 3. Section 3 amended (requirement to cease selling food or drink etc. during specified period) .....B3603
- 4. Section 7 amended (person responsible for carrying on a catering business must comply with directions of Secretary) .....B3603
- 5. Section 9 amended (manager of scheduled premises must comply with directions of Secretary) .....B3603
- 6. Part 4 heading amended (inspection powers).....B3603

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Section	Page
7.	Section 11 amended (appointment of inspectors).....B3605
8.	Section 12 amended (powers of inspectors).....B3607
9.	Section 12A added.....B3609
12A.	Power to enter and search specified premises with warrant for investigation .....B3609
10.	Section 13 amended (obstruction of inspectors etc. prohibited) .....B3609
11.	Part 5 heading amended (expiry) .....B3611
12.	Section 13A added.....B3611
13A.	Defence .....B3611
13.	Schedule 2 amended (scheduled premises).....B3613

**Part 3**

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

14.	Section 3 amended (requirement to cease selling food or drink etc. during specified period) .....B3615
15.	Schedule 2 amended (scheduled premises).....B3615

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

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

## **Part 1**

### **Preliminary**

#### **1. Commencement**

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

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

The Prevention and Control of Disease (Requirements and Directions) (Business and Premises) Regulation (Cap. 599 sub. leg. F) is amended as set out in Parts 2 and 3.

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## Part 2

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

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

Section 3(6)—

**Repeal**

“, without reasonable excuse,”.

4. **Section 7 amended (person responsible for carrying on a catering business must comply with directions of Secretary)**

Section 7(2)—

**Repeal**

“, without reasonable excuse,”.

5. **Section 9 amended (manager of scheduled premises must comply with directions of Secretary)**

Section 9(2)—

**Repeal**

“, without reasonable excuse,”.

6. **Part 4 heading amended (inspection powers)**

Part 4, heading—

**Repeal**

“**Inspection**”

**Substitute**

**“Enforcement”.**

**7. Section 11 amended (appointment of inspectors)**

(1) Section 11, heading—

**Repeal**

**“Appointment of inspectors”**

**Substitute**

**“Authorized officers”.**

(2) Section 11(1) and (2)—

**Repeal**

**“inspector”**

**Substitute**

**“authorized officer”.**

(3) Section 11(3)—

**Repeal**

**“an inspector”**

**Substitute**

**“an authorized officer”.**

(4) Section 11(3)—

**Repeal**

**“inspector’s”**

**Substitute**

**“officer’s”.**

(5) Section 11(3)—

**Repeal**

**“the inspector”**

**Substitute**

“the officer”.

**8. Section 12 amended (powers of inspectors)**

(1) Section 12, heading—

**Repeal**

“of inspectors”

**Substitute**

“to enter and inspect specified premises”.

(2) Section 12(1)—

**Repeal**

“An inspector”

**Substitute**

“An authorized officer”.

(3) Section 12(1)(a), (d) and (e)—

**Repeal**

“the inspector” (wherever appearing)

**Substitute**

“the officer”.

(4) Section 12(2)—

**Repeal**

“an inspector”

**Substitute**

“an authorized officer”.

(5) Section 12(2)—

**Repeal**

“the inspector” (wherever appearing)

**Substitute**

“the officer”.

**9. Section 12A added**

After section 12—

**Add**

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

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

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

- (1) Section 13, heading—

**Repeal**

**“inspectors”**

**Substitute**

**“authorized officers”.**

(2) Section 13(1) and (2)—

**Repeal**

**“inspector”**

**Substitute**

**“authorized officer”.**

**11. Part 5 heading amended (expiry)**

Part 5, heading—

**Repeal**

**“Expiry”**

**Substitute**

**“Miscellaneous”.**

**12. Section 13A added**

Part 5, before section 14—

**Add**

**“13A. Defence**

- (1) It is a defence for a person charged with an offence under section 3(6), 7(2) or 9(2) to establish that, at the time of the alleged offence, the person had lawful authority or reasonable excuse for contravening the provision concerned.
- (2) Without limiting subsection (1), it is a defence for a person charged with an offence under section 7(2) or 9(2) for a failure to comply with a direction to



establish that, at the time of the alleged offence, the person had taken all reasonable steps to comply with the direction.

- (3) A person is taken to have established a matter that needs to be established for a defence under this section if—
- (a) there is sufficient evidence to raise an issue with respect to that matter; and
  - (b) the contrary is not proved by the prosecution beyond reasonable doubt.”.

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

- (1) Schedule 2, Part 1—

**Add**

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

- (2) Schedule 2, Part 2, section 1—

**Add in alphabetical order**

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

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

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## Part 3

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

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

(1) Section 3(4), Chinese text—

**Repeal**

“旅館”

**Substitute**

“酒店或賓館”.

(2) Section 3—

**Repeal subsection (7)**

**Substitute**

“(7) In subsection (4)—

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

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

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

**Repeal**

“旅館(”

**Substitute**

“酒店或賓館(”.

(2) Schedule 2, Part 2, section 1—

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

- (3) Schedule 2, Part 2, section 1—

**Add in alphabetical order**

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

Wendy LEUNG  
Clerk to the Executive Council

COUNCIL CHAMBER

18 November 2020

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## Explanatory Note

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

2. Part 2—
  - (a) adds hotel or guesthouse to Part 1 of Schedule 2 to the principal Regulation;
  - (b) provides for a power to enter and search specified premises (as defined by section 10 of the principal Regulation) with warrant for investigation, and consequentially amends the references to “inspector” to “authorized officer”; and
  - (c) provides that it is a defence for a person charged with an offence under Part 2 or 3 of the principal Regulation to establish that the person had taken all reasonable steps to comply with the direction concerned.
  
3. Part 3 updates the definitions of *guesthouse* and *hotel* under the principal Regulation having regard to the Hotel and Guesthouse Accommodation (Amendment) Ordinance 2020 (6 of 2020), which will come into operation on 1 December 2020.