

**L.N. 53 of 2021**

# **Prevention and Control of Disease (Prohibition on Group Gathering) (Amendment) (No. 3) Regulation 2021**

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## **Prevention and Control of Disease (Prohibition on Group Gathering) (Amendment) (No. 3) Regulation 2021**

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

### **1. Commencement**

This Regulation comes into operation on 29 April 2021.

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

The Prevention and Control of Disease (Prohibition on Group Gathering) Regulation (Cap. 599 sub. leg. G) is amended as set out in sections 3 to 16.

### **3. Part 1 heading added**

Before section 1—

**Add**

**“Part 1**

**Preliminary”.**

### **4. Section 2 amended (interpretation)**

(1) Section 2, Chinese text, definition of 獲授權人員—

**Repeal**

“員。”

**Substitute**

“員；”.

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(2) Section 2—

**Add in alphabetical order**

“*exempted group gathering* (豁免羣組聚集) means a group gathering specified in Part 1 of Schedule 1;

*licensee* (持牌人) has the meaning given by section 2 of the Travel Agents Ordinance (Cap. 218);

*qualified person* (合資格人士) means a person who, immediately before participating in the group gathering concerned, meets any set of conditions specified under section 5B(1);”.

**5. Part 2 heading added**

Before section 3—

**Add**

**“Part 2**

**Prohibition on Group Gatherings”.**

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

Section 3(2)(a)—

**Repeal**

“specified in Schedule 1”.

**7. Part 3 heading and sections 5A to 5D added**

After section 5—

**Add**

## “Part 3

# Group Gatherings Participated by Qualified Persons

### 5A. Interpretation of Part 3

In this Part—

**organizer** (組織者), in relation to a qualified persons’ gathering, means—

- (a) a person who organizes the gathering;
- (b) a person who—
  - (i) owns, controls or operates the place or premises at which the gathering takes place; and
  - (ii) knowingly allows the taking place of the gathering; or
- (c) a person authorized by a person mentioned in paragraph (a) or (b);

**qualified persons’ gathering** (合資格人士聚集) means a group gathering that is, or is intended by a person who organizes it to be, an exempted group gathering specified in item 9B, 11A or 18 of Part 1 of Schedule 1;

**Note without legislative effect—**

For ease of reference—

- (a) item 9B of Part 1 of Schedule 1 relates to wedding ceremonies;
- (b) item 11A of Part 1 of Schedule 1 relates to certain meetings of bodies and shareholders’ meetings; and
- (c) item 18 of Part 1 of Schedule 1 relates to religious activities.

***specified participant*** (指明參與者), in relation to a qualified persons' gathering, means a person who participates, or intends to participate, in the gathering;

***staff member*** (工作人員), in relation to a tour gathering, means—

- (a) a licensee who organizes the gathering;
- (b) an employee of the licensee;
- (c) an agent or contractor of the licensee; or
- (d) an employee of the agent or contractor;

***staff member participant*** (工作人員參與者), in relation to a tour gathering, means a person who participates, or intends to participate, in the gathering as a staff member;

***tour gathering*** (旅行團聚集) means a group gathering that is, or is intended by a licensee who organizes it to be, an exempted group gathering specified in item 19 of Part 1 of Schedule 1;

***tour organizer*** (辦團者), in relation to a tour gathering, means—

- (a) a licensee who organizes the gathering; or
- (b) a person authorized by the licensee.

**5B. Secretary may specify conditions regarding qualified persons**

(1) For classifying a person as a qualified person for the purposes of this Regulation, the Secretary may, by notice published in the Gazette, specify one or more sets of conditions by reference to—

- (a) whether the person has been administered a vaccine within a certain time;

- (b) whether the person has previously contracted the specified disease within a certain time;
  - (c) whether the person has undergone a test within a certain time for ascertaining whether he or she has contracted the specified disease;
  - (d) whether the person is clinically assessed to be unfit to be administered a vaccine;
  - (e) the age of the person; or
  - (f) any other relevant factors.
- (2) A notice published under subsection (1) is not subsidiary legislation.

(3) In this section—

*vaccine* (疫苗) has the meaning given by section 2 of the Prevention and Control of Disease (Use of Vaccines) Regulation (Cap. 599 sub. leg. K).

### **5C. Powers of organizer and police officer in respect of qualified persons' gathering**

- (1) For ascertaining whether a specified participant of a qualified persons' gathering is a qualified person, an organizer of the gathering may, before or during the gathering—
- (a) make any reasonable requirement to the participant, including a requirement to provide any record, document or information proving that the participant is a qualified person; and
  - (b) inspect and examine such record, document or information.
- (2) If a specified participant of a qualified persons' gathering—



- (a) is not a qualified person; or
- (b) fails to comply with a requirement made under subsection (1)(a),  
an organizer of the gathering may require the participant not to participate, or to cease to participate, in the gathering.
- (3) If a specified participant of a qualified persons' gathering fails to comply with a requirement made under subsection (2), a police officer may use any force that is reasonably necessary for securing the participant's compliance with the requirement.
- (4) Subsections (1) and (2) do not limit any rights of an organizer of a qualified persons' gathering under any law or contract.

**5D. Powers of tour organizer and police officer in respect of tour gathering**

- (1) For ascertaining whether a staff member participant of a tour gathering is a qualified person, a tour organizer of the gathering may, before or during the gathering—
  - (a) make any reasonable requirement to the participant, including a requirement to provide any record, document or information proving that the participant is a qualified person; and
  - (b) inspect and examine such record, document or information.
- (2) If a staff member participant of a tour gathering—
  - (a) is not a qualified person; or

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- (b) fails to comply with a requirement made under subsection (1)(a),  
a tour organizer of the gathering may require the participant not to participate, or to cease to participate, in the gathering.
- (3) If a staff member participant of a tour gathering fails to comply with a requirement made under subsection (2), a police officer may use any force that is reasonably necessary for securing the participant's compliance with the requirement.
- (4) Subsections (1) and (2) do not limit any rights of a tour organizer of a tour gathering under any law or contract.”.

**8. Part 4 heading added**

Before section 6—

**Add**

**“Part 4**

**Offence related to Prohibited Group Gatherings”.**

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

(1) Section 7(1)(a)—

**Repeal**

“for a person charged under section 6(1)(a)”

**Substitute**

“if section 6(1)(a) applies”.

(2) Section 7(1)(b)—

**Repeal**

“for a person charged under section 6(1)(b)”

**Substitute**

“if section 6(1)(b) applies”.

- (3) Section 7(1)(c)—

**Repeal**

“for a person charged under section 6(1)(c)”

**Substitute**

“if section 6(1)(c) applies”.

- (4) After section 7(1A)—

**Add**

“(1B) It is a defence for a person who is charged with an offence under section 6(1) in respect of a prohibited group gathering (*relevant person*) to establish that—

- (a) the gathering would have been an exempted qualified persons’ gathering if each of the persons participating in the gathering were a qualified person; and
- (b) the relevant person—
  - (i) if section 6(1)(a) applies—
    - (A) was a qualified person; or
    - (B) was not a qualified person but, having taken all reasonable steps to ensure that he or she was a qualified person, honestly believed that he or she was a qualified person; or
  - (ii) if section 6(1)(b) or (c) applies—had taken all reasonable steps to ensure that each of the persons participating in the gathering was a qualified person.

- (1C) It is a defence for a person who is charged with an offence under section 6(1) in respect of a prohibited group gathering (*relevant person*) to establish that—
- (a) the gathering would have been an exempted tour gathering if each of the persons participating in the gathering as a staff member were a qualified person; and
  - (b) the relevant person—
    - (i) if section 6(1)(a) applies—
      - (A) did not participate in the gathering as a staff member;
      - (B) was a qualified person; or
      - (C) was not a qualified person but, having taken all reasonable steps to ensure that he or she was a qualified person, participated in the gathering as a staff member with an honest belief that he or she was a qualified person; or
    - (ii) if section 6(1)(b) or (c) applies—had taken all reasonable steps to ensure that each of the persons participating in the gathering as a staff member was a qualified person.”.
- (5) After section 7(2)—

**Add**

- “(3) In this section—

*exempted qualified persons’ gathering* (獲豁免合資格人士聚集) means an exempted group gathering specified in item 9B, 11A or 18 of Part 1 of Schedule 1;

**Note without legislative effect—**

For ease of reference—

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- (a) item 9B of Part 1 of Schedule 1 relates to wedding ceremonies;
- (b) item 11A of Part 1 of Schedule 1 relates to certain meetings of bodies and shareholders' meetings; and
- (c) item 18 of Part 1 of Schedule 1 relates to religious activities.

***exempted tour gathering*** (獲豁免旅行團聚集) means an exempted group gathering specified in item 19 of Part 1 of Schedule 1;

***staff member*** (工作人員), in relation to a group gathering, means—

- (a) a licensee who organizes the gathering;
- (b) an employee of the licensee;
- (c) an agent or contractor of the licensee; or
- (d) an employee of the agent or contractor.”.

**10. Part 5 heading added**

Before section 9—

**Add**

**“Part 5**

**Enforcement Powers”.**

**11. Section 9 amended (power to demand personal details and inspect proof of identity)**

Section 9(4)—

**Repeal**

“supplies any information that the person knows to be false or misleading”

**Substitute**

“knowingly or recklessly supplies any information that is false or misleading in a material particular”.

**12. Section 11 amended (power to enter and inspect public place or Cap. 599F premises)**

Section 11(c)—

**Repeal**

“document or article”

**Substitute**

“document, article or information”.

**13. Section 13 amended (obstruction of authorized officer etc. prohibited)**

After section 13(3)—

**Add**

“(4) A person who, in purported compliance with a requirement made by an authorized officer in the performance of a function under this Regulation, knowingly or recklessly provides any record, document or information that is false or misleading in a material particular commits an offence and is liable on conviction to a fine at level 3.”.

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

Section 14(1), after “of”—

**Add**

“any provisions of”.

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**15. Part 6 heading added**

Before section 15—

**Add**

**“Part 6**

**Miscellaneous”.**

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

(1) Schedule 1—

**Repeal**

“[s. 3”

**Substitute**

“[ss. 2, 5A & 7”.

(2) Schedule 1, before item 1—

**Add**

**“Part 1**

**Exempted Group Gatherings”.**

(3) Schedule 1, Part 1, after item 9A—

**Add**

“9B. Group gathering—

- (a) that is held during a wedding ceremony at which no food or drink is served (except as part of a religious ritual);
- (b) in which each of the participants is a qualified person; and

- (c) that is participated by not more than—
  - (i) for a gathering held at an indoor place—50 persons; or
  - (ii) for a gathering held at an outdoor place—100 persons”.
- (4) Schedule 1, Part 1—

**Repeal item 11**

**Substitute**

“11. Group gathering during a specified business meeting at which no food or drink is served and, in the case of a group gathering of more than 20 persons, they are separated in different rooms or partitioned areas, each accommodating not more than 20 persons”.

- (5) Schedule 1, Part 1, after item 11—

**Add**

- “11A. Group gathering that satisfies the following conditions—
- (a) the gathering is held during a specified business meeting at which no food or drink is served;
  - (b) each of the participants in the gathering is a qualified person;
  - (c) if the gathering is held at an indoor place and is participated by more than 50 persons—they are separated in different rooms or partitioned areas, each accommodating not more than 50 persons; and



(d) if the gathering is held at an outdoor place and is participated by more than 100 persons—they are separated in different partitioned areas, each accommodating not more than 100 persons”.

(6) Schedule 1, Part 1—

**Repeal item 17**

**Substitute**

“17. Group gathering during a religious activity (other than a wedding ceremony) that satisfies the following conditions—

- (a) the activity is held on any premises constructed or regularly used as a place of worship (including a church, monastery or nunnery, mosque, synagogue or temple);
- (b) no food or drink is served in the activity (except as part of a religious ritual); and
- (c) the number of participants in the activity is restricted to not more than 30% of the number of persons that may normally be accommodated on the premises as a place of worship”.

(7) Schedule 1, Part 1, after item 17—

**Add**

“18. Group gathering during a religious activity (other than a wedding ceremony) that satisfies the following conditions—

- (a) each of the participants in the gathering is a qualified person;

- (b) the activity is held on any premises constructed or regularly used as a place of worship (including a church, monastery or nunnery, mosque, synagogue or temple);
- (c) no food or drink is served in the activity (except as part of a religious ritual); and
- (d) the number of participants in the activity is restricted to—
  - (i) for a gathering held on indoor premises—not more than 50% of the number of persons that may normally be accommodated on the premises as a place of worship; or
  - (ii) for a gathering held on outdoor premises—not more than 100% of the number of persons that may normally be accommodated on the premises as a place of worship

19. Group gathering of not more than 30 persons—

- (a) during a tour—
  - (i) organized by a licensee; and
  - (ii) registered with the Travel Industry Council of Hong Kong; and
- (b) in which each of the persons who participates as a staff member of the tour is a qualified person,

except when taking place at any Cap. 599F premises”.

- (8) At the end of Schedule 1—

**Add**

## “Part 2

### Interpretation

1. In this Schedule—

***indoor*** (室內) means—

- (a) having a ceiling or roof, or a cover that functions (whether temporarily or permanently) as a ceiling or roof; and
- (b) having at least 50% of the total area of all sides enclosed (whether temporarily or permanently), otherwise than by—
  - (i) any window or door capable of being opened; or
  - (ii) any opening that functions as such a window or door;

***outdoor*** (室外) means not indoor;

***specified business meeting*** (指明業務會議) means—

- (a) a meeting of a body that must be held within a specified period in order to comply with any Ordinance or other regulatory instrument that governs the operation of the body or its business; or

- (b) a shareholders' meeting of a company listed on a recognized stock market (as defined by section 1 of Part 1 of Schedule 1 to the Securities and Futures Ordinance (Cap. 571)) that is held in accordance with any Ordinance or other regulatory instrument that governs the operation of the company or its business;

*staff member* (工作人員), in relation to a tour, means—

- (a) a licensee who organizes the tour;
- (b) an employee of the licensee;
- (c) an agent or contractor of the licensee; or
- (d) an employee of the agent or contractor.”.

Wendy LEUNG  
Clerk to the Executive Council

COUNCIL CHAMBER

27 April 2021

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### Explanatory Note

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

- (a) update certain exemption conditions for existing exempted group gatherings during certain meetings or religious activities;
- (b) provide for additional exempted group gatherings, namely—
  - (i) group gatherings during wedding ceremonies, certain meetings or religious activities participated only by persons who meet certain conditions (*relevant conditions*); and
  - (ii) group gatherings during certain tours if all the staff members meet the relevant conditions;
- (c) empower the Secretary for Food and Health to specify the relevant conditions;
- (d) confer certain powers on a person who organizes a group gathering that is, or is intended to be, one described in subparagraph (b)(i) or (ii), including a power to require the provision of certain record, document or information;
- (e) provide for defences for persons who are charged with an offence under section 6(1) of the principal Regulation for being involved in a prohibited group gathering that would have been an exempted group gathering described in subparagraph (b)(i) or (ii) if all or certain persons participating in the gathering met the relevant conditions; and

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- (f) create a new offence of providing false or misleading record, document or information to an authorized officer, and align a similar existing offence with the new offence.