

# **LEGISLATIVE COUNCIL BRIEF**

## **Prevention and Control of Disease Ordinance (Cap. 599)**

### **PREVENTION AND CONTROL OF DISEASE (PROHIBITION ON GATHERING) (AMENDMENT) (NO. 4) REGULATION 2022**

#### **INTRODUCTION**

##### Annex

At the meeting of the Executive Council on 18 October 2022, the Council ADVISED and the Chief Executive ORDERED that the Prevention and Control of Disease (Prohibition on Gathering) (Amendment) (No. 4) Regulation 2022 (“the Amendment Regulation”) (at Annex) should be made under section 8 of the Prevention and Control of Disease Ordinance (Cap. 599) (“the Ordinance”) to –

- (a) raise the cap on number of persons allowed in group gatherings in public places from four to 12;
- (b) raise the number of persons constituting group gatherings in public places that may be dispersed from more than four to more than 12; and
- (c) make a technical consequential amendment to the definition of “licensee” under the Prevention and Control of Disease (Prohibition on Gathering) Regulation (Cap. 599G) having regard to the coming into operation of the Travel Industry Ordinance.

#### **PRESENT SITUATION AND CONSIDERATION**

##### **Global Situation**

2. Globally, as of 14 October 2022, the World Health Organization (“WHO”) recorded a total of over 620 million confirmed cases of COVID-19 with over 6.5 million deaths. According to the WHO, the number of reported new weekly cases decreased or remained stable across all six WHO regions as of 9 October 2022. The highest numbers of new weekly cases were reported from Germany, China, France, the United States of America and Italy. Omicron BA.5 sub-lineage has continued to be dominant globally,

while the prevalence of BA.2 and BA.4 sub-lineages has continued a declining trend, accounting for 3.9% and 7.0% respectively in the same week.

### **Situation in the Mainland and Macao**

3. As of 16 October 2022, around 0.26 million confirmed cases with 5 226 deaths were recorded in mainland China. At the same time, a total of 793 confirmed cases including 6 deaths were reported in Macao SAR.

### **Local Situation**

4. Following a declining trend from the peak of the fifth wave in early March 2022 to May 2022, the local epidemic situation saw a gradual increase in the number of COVID-19 infections from June to early September 2022 with a corresponding rise in the number of hospitalisation and number of deaths reported. After reaching the peak of around 10 000 daily cases in early September 2022, a downward trend had been observed from mid-September to early October 2022, with the daily number of reported cases staying below 4 000 in early October 2022. The number of reported cases has picked up again from 4 October 2022 onwards.

5. As of 16 October 2022, the Centre for Health Protection of the Department of Health (“DH”) recorded a total of 960 612 positive cases of COVID-19 detected by nucleic acid tests and 864 605 cases by rapid antigen tests (“RAT”) since 31 December 2021. Between 10 and 16 October 2022, the total number of cases detected by nucleic acid tests and RAT reported increased to 36 034 from 28 934 cases reported in the previous week. Among the 36 034 cases, 2 557 (7.1%) were imported, while the remaining 33 477 (92.9%) were locally acquired. The number of locally acquired cases detected by nucleic acid tests increased from 1 172 on 10 October to 1 454 on 16 October, and the number of cases tested positive by RAT increased from 3 306 to 3 725 during the same period. In addition, a total of 55 fatal cases were recorded between 10 and 16 October 2022, a slight increase from 45 cases recorded between 3 and 9 October 2022. Among the specimens received by the DH from 7 to 13 October for verification testing of local cases, about 1.1% and 93.3% (seven-day moving average) are related to the sub-lineages BA.2.12.1 and BA.4/BA.5 (including suspected cases) of the Omicron mutant strain respectively.

## **INCREASING THE NUMBER OF PERSONS ALLOWED IN GROUP GATHERINGS IN PUBLIC PLACES**

6. Cap. 599G was introduced in late March 2020 to prohibit any group gathering of more than four persons in any public place during a specified period. Since then, we have been adjusting the cap on the number of persons allowed in such group gatherings in light of the epidemic situation at the time. Prior to the legislative amendment, the limit stands at four persons, a cap that has been in effect since the first stage relaxation of social distancing measures on 21 April 2022 following the subsidence of the severe epidemic situation under the fifth wave in the first few months of 2022.

7. As the epidemic situation subsides, there is scope to allow more social and economic activities to resume though the number of daily new local cases reaching a plateau means that we need to pursue relaxation with caution. Taking into account all relevant factors, we will increase the number of persons permitted in public gatherings to 12 with effect from 20 October 2022. The change not only allows larger group activities to take place, but also sends a clear signal to the community on the Government's staunch commitment to resume citizens' daily lives to normalcy as far as practicable and when the epidemic situation permits.

8. We have also taken this opportunity to make a technical amendment to Cap. 599G. Currently, tour groups are exempted gatherings as listed in Schedule 1 to Cap. 599G provided that they fulfil certain conditions, one of which is that they should be organised by a licensee as defined by section 2 of the Travel Agents Ordinance (Cap. 218). In light of the full operation of the Travel Industry Ordinance (Cap. 634), we have made a consequential amendment to the definition of "licensee" under Cap. 599G such that it would mean a "licensed travel agent" as defined by section 2(1) of Cap. 634. The change is purely technical in nature and has no effect in substance to the existing social distancing measures.

## **OTHER OPTIONS**

9. There are no other appropriate means to impose the proposed changes and hence the making of the Amendment Regulation is necessary.

## **THE AMENDMENT REGULATIONS**

10. The Amendment Regulations amended Cap. 599G to –
- (a) raise the number of persons allowed in group gatherings in public places from 4 to 12;
  - (b) raise the number of persons constituting group gatherings in public places that may be dispersed from more than 4 to more than 12; and
  - (c) make a technical consequential amendment to the definition of “licensee” under Cap. 599G having regard to the full operation of Cap. 634.

## **LEGISLATIVE TIMETABLE**

11. The legislative timetable is as follows –

|                                    |                 |
|------------------------------------|-----------------|
| Publication in the Gazette         | 18 October 2022 |
| Tabling at the Legislative Council | 19 October 2022 |
| Commencement                       | 20 October 2022 |

## **IMPLICATIONS OF THE PROPOSALS**

12. The proposal under the Amendment Regulation is in conformity with the Basic Law, including the provisions concerning human rights. The Amendment Regulation does not affect the binding effect of Cap. 599G.

## **PUBLIC CONSULTATION**

13. Given the exigency of the situation, public consultation is not feasible.

## **PUBLICITY**

14. We gazetted the Amendment Regulation and issued a press release on 18 October 2022. A spokesperson was also made available to respond to public or media enquiries.

## **BACKGROUND**

15. The COVID-19 pandemic has caused an unprecedented health challenge across the globe. Before the wide availability and administration of vaccines, the absence of an effective treatment combined with an exponential growth in infections has 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.

16. According to 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.

17. Section 8 of the Ordinance empowers the Chief Executive in Council 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. 599G**

18. We introduced Cap. 599G in late March 2020 to prohibit group gatherings of more than four persons in a public place during any period not exceeding 14 days as specified by the Secretary for Health by a notice published in the Gazette, except for a list of exempted group gatherings. The Chief Secretary for Administration may permit certain group gatherings. The number of persons allowed in a group gathering in a public place or at the 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.

19. The cap on the number of persons allowed in a group gathering under Cap. 599G was adjusted to eight persons in early May 2020 and subsequently 50 persons in mid-June 2020; decreased to four persons in mid-July 2020 and two persons in late July 2020 in response to the outbreaks under the third wave; and increased to four persons again in September 2020 after the third wave subsided. With the arrival of the fourth wave, the maximum number of persons allowed in group gatherings in public places and at the Cap. 599F premises was again reduced to two persons in December 2020. As the fourth wave gradually subsided in early February 2021, the cap was increased to four persons in late February 2021. During the fifth wave, the cap was decreased to two persons once again in February 2022. Restriction on multi-household gatherings was also introduced at the same time in order to counteract the rapidly growing case number then. When the epidemic situation became relatively stable, the cap was re-raised to four with the ban on multi-household gatherings lifted in April 2022. The restrictions have remained unchanged since then until the current legislative amendment exercise.

## **ENQUIRIES**

20. For enquiries on this brief, please contact the Health Bureau at 3509 8765.

**Health Bureau**  
**October 2022**

Prevention and Control of Disease (Prohibition on Gathering) (Amendment) (No. 4)  
Regulation 2022

Section 1 1

**Prevention and Control of Disease (Prohibition on  
Gathering) (Amendment) (No. 4) Regulation 2022**

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

- 1. Commencement**  
This Regulation comes into operation on 20 October 2022.
- 2. Prevention and Control of Disease (Prohibition on Gathering)  
Regulation amended**  
The Prevention and Control of Disease (Prohibition on Gathering)  
Regulation (Cap. 599 sub. leg. G) is amended as set out in sections 3  
and 4.
- 3. Section 2 amended (interpretation)**  
(1) Section 2, definition of *group gathering*—  
**Repeal**  
“4”  
**Substitute**  
“12”.  
(2) Section 2—  
**Repeal the definition of licensee**  
**Substitute**  
“*licensee* (持牌人) means a licensed travel agent as defined by  
section 2(1) of the Travel Industry Ordinance (Cap.  
634);”.

Prevention and Control of Disease (Prohibition on Gathering) (Amendment) (No. 4)  
Regulation 2022

Section 4 2

- 4. Section 10 amended (power to disperse prohibited group  
gathering etc. in public place)**

Section 10(2)—

**Repeal**

“4”

**Substitute**

“12”.

Clerk to the Executive Council

COUNCIL CHAMBER

2022

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### Explanatory Note

This Regulation amends the Prevention and Control of Disease (Prohibition on Gathering) Regulation (Cap. 599 sub. leg. G) (*principal Regulation*) to relax the number of persons constituting a “group gathering” prohibited by, or a gathering that may be dispersed under, the principal Regulation from more than 4 to more than 12.

2. In view of the full commencement of the Travel Industry Ordinance (Cap. 634), this Regulation also consequentially amends the definition of *licensee* in section 2 of the principal Regulation.