

**L.N. 13 of 2022**

# **Prevention and Control of Disease (Prohibition on Group Gathering) (Amendment) Regulation 2022**

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## **Prevention and Control of Disease (Prohibition on Group Gathering) (Amendment) 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 10 February 2022.

### **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 14.

### **3. Title amended**

The title—

**Repeal**

“Group”.

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

(1) Section 2, definition of *fixed penalty*, after “section 8(1)”—

**Add**

“or 8G(1)”.

(2) Section 2, definition of *group gathering*—

**Repeal**

“4”

**Substitute**

“2”.

(3) Section 2—

**Repeal the definition of *exempted group gathering*.**

(4) Section 2—

**Add in alphabetical order**

***“exempted gathering*** (豁免聚集) means a gathering specified in Part 1 of Schedule 1;

***multi-household gathering*** (多户聚集) means a gathering of persons ordinarily living in more than 2 households;

***private premises*** (私人處所) means any premises to which the public may not, or are not permitted to, have access from time to time (whether by payment or otherwise);

***prohibited multi-household gathering*** (受禁多户聚集) means a multi-household gathering the taking place of which is prohibited under section 8A;”.

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

Section 3(2)(a)—

**Repeal**

“group”.

**6. Section 4 heading amended (period specified by Secretary)**

Section 4, heading, after “Secretary”—

**Add**

“for section 3”.

**7. Section 5A amended (interpretation of Part 3)**

- (1) Section 5A, definition of *qualified persons' gathering*—

**Repeal**

“group gathering specified in item 18 or”

**Substitute**

“gathering specified in item”.

- (2) Section 5A, definition of *qualified persons' gathering*—

**Repeal the Note**

**Substitute**

“Note without legislative effect—

For ease of reference, item 20 of Part 1 of Schedule 1 relates to certain tours.”.

- (3) Section 5A, definition of *tour gathering*—

**Repeal**

“exempted group gathering”

**Substitute**

“exempted gathering”.

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

- (1) Section 7(3), definition of *exempted qualified persons' gathering*—

**Repeal**

“group gathering specified in item 18 or”

**Substitute**

“gathering specified in item”.

- (2) Section 7(3), definition of *exempted qualified persons' gathering*—

**Repeal the Note**

**Substitute**

“**Note without legislative effect—**

For ease of reference, item 20 of Part 1 of Schedule 1 relates to certain tours.”.

- (3) Section 7(3), definition of *exempted tour gathering*—

**Repeal**

“group”.

**9. Parts 4A and 4B added**

After Part 4—

**Add**

**“Part 4A**

**Prohibition on Multi-Household Gatherings**

**8A. Prohibition on multi-household gatherings**

- (1) A multi-household gathering at any private premises is prohibited from taking place during a period specified under section 8B(1).
- (2) In counting households for determining whether a gathering is a multi-household gathering for the purposes of subsection (1), a household is not to be counted if each of the participants, or (if appropriate) the only participant, of the gathering ordinarily living in that household participates solely to provide care and support to any other participant of the gathering ordinarily living in another household who has particular needs due to reasons such as age, illness, disability, mental health, pregnancy or other health condition.

- (3) Subsection (1) does not apply to a multi-household gathering that is exempted under section 8C or permitted under section 8D(1).

**8B. Period specified by Secretary for section 8A**

- (1) For preventing, protecting against, delaying or otherwise controlling the incidence or transmission of the specified disease, the Secretary may, by notice published in the Gazette, specify a period for the purposes of section 8A(1).
- (2) Any period specified under subsection (1) must not exceed 14 days.
- (3) Any notice published under subsection (1) is not subsidiary legislation.

**8C. Exempted multi-household gatherings**

For the purposes of section 8A(3), a multi-household gathering is exempted if—

- (a) the gathering is necessary for escaping from harm or the risk of harm, including harm relating to family violence or violence to another person;
- (b) the gathering is necessary for repair, maintenance or emergency purposes; or
- (c) the gathering is an exempted gathering other than one specified in item 6 of Part 1 of Schedule 1.

**8D. Chief Secretary for Administration may permit multi-household gathering**

- (1) The Chief Secretary for Administration (*Chief Secretary*) may permit any multi-household gathering for the purposes of section 8A(3) if satisfied that the taking place of the gathering—
  - (a) is necessary for governmental operation; or
  - (b) because of the exceptional circumstances of the case, otherwise serves the public interest of Hong Kong.
- (2) The Chief Secretary may, if considered necessary, attach conditions to a permission.
- (3) The Chief Secretary may cancel a permission or vary a condition attached to a permission.
- (4) A permission, attachment of conditions, cancellation or variation under this section must be made in writing.

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**Part 4B**

**Offence related to Prohibited Multi-Household Gatherings**

**8E. Offence if prohibited multi-household gathering takes place**

- (1) If a prohibited multi-household gathering takes place, each of the following persons commits an offence—
  - (a) a person who participates in the gathering;



- (b) a person who organizes the gathering;
- (c) a person who—
  - (i) owns, controls or operates the premises at which the gathering takes place; and
  - (ii) knowingly allows the taking place of the gathering.
- (2) A person who commits an offence under subsection (1) is liable on conviction to a fine at level 4 and to imprisonment for 6 months.

**8F. Defence for offence under section 8E**

- (1) It is a defence for a person who is charged with an offence under section 8E(1) in respect of a prohibited multi-household gathering to establish that, at the time of the alleged offence, the person had lawful authority or reasonable excuse—
  - (a) if section 8E(1)(a) applies—for participating in the gathering;
  - (b) if section 8E(1)(b) applies—for organizing the gathering; or
  - (c) if section 8E(1)(c) applies—for allowing the taking place of the gathering.
- (2) 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.

**8G. Fixed penalty in discharge of liability under section 8E(1)(a)**

- (1) If a person commits an offence under section 8E(1)(a), the person may, in accordance with Schedule 2, discharge liability for the offence by paying a fixed penalty of \$5,000.
- (2) Schedule 2 provides for matters relating to the fixed penalty.”.

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

Section 9(1), after “section 6(1)”—

**Add**

“or 8E(1)”.

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

Section 10(2)—

**Repeal**

“and the total number of participants of the gatherings is more than 4,”.

**12. Section 11A added**

After section 11—

**Add**

**“11A. Power to require information or assistance in relation to private premises**

An authorized officer may do any or all of the following for ascertaining whether section 8A(1) is being or has been complied with at any private premises—

- (a) require the person who owns, controls or operates the premises—
  - (i) to produce any document or article in the person’s possession that relates to any activity carried out at the premises that the officer reasonably believes to be a prohibited multi-household gathering; or
  - (ii) to furnish any information in the person’s possession that relates to the activity;
- (b) inspect, examine and copy any document, article or information described in paragraph (a);
- (c) conduct any examination and inquiry that the officer reasonably considers necessary;
- (d) require any person to provide the officer with the assistance or information in the person’s possession that the officer reasonably considers necessary to enable the officer to perform a function under this Regulation.”.

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

- (1) Schedule 1, heading—

**Repeal**

“**Group**”.

- (2) Schedule 1—

**Repeal**

“[ss. 2, 5A & 7]”

**Substitute**

“[ss. 2, 5A, 7 & 8C]”.

- (3) Schedule 1, Part 1, heading—

**Repeal**

“Group”.

- (4) Schedule 1, Part 1, items 1, 2, 3, 4 and 5—

**Repeal**

“Group gathering”

**Substitute**

“A gathering”.

- (5) Schedule 1, Part 1—

**Repeal item 6**

**Substitute**

“6. A gathering of persons ordinarily living in the same household”.

- (6) Schedule 1, Part 1, items 7, 8, 9 and 12—

**Repeal**

“Group gathering”

**Substitute**

“A gathering”.

- (7) Schedule 1, Part 1—

**Repeal items 17 and 18.**

- (8) Schedule 1, Part 1, items 19 and 20—

**Repeal**

“Group gathering”

**Substitute**

“A gathering”.

**14. Schedule 2 amended (fixed penalty)**

(1) Schedule 2—

**Repeal**

“[s. 8]”

**Substitute**

“[ss. 8 & 8G]”.

(2) Schedule 2—

(a) section 2(1);

(b) section 3(1);

(c) section 4(1)(a)(i);

(d) section 5(1);

(e) section 6(1);

(f) section 12(1)(a) and (b)—

**Repeal**

“6(1)(a)”

**Substitute**

“6(1)(a) or 8E(1)(a)”.

Wendy LEUNG  
Clerk to the Executive Council

COUNCIL CHAMBER

8 February 2022

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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*) to—

- (a) tighten the number of persons constituting a “group gathering” prohibited under the principal Regulation from more than 4 to more than 2; and
  - (b) in view of the tightening of the number, amend the provision in the principal Regulation on gatherings that may be dispersed, so that if the distance between any 2 gatherings in a public place is less than 1.5 m, both gatherings may be dispersed.
2. This Regulation also amends the principal Regulation in relation to gatherings of persons ordinarily living in more than 2 households (*multi-household gatherings*), mainly to—
  - (a) prohibit the taking place of a multi-household gathering at any private premises during a period specified by the Secretary for Food and Health;
  - (b) provide for the counting of households for the purposes of the prohibition;
  - (c) provide for the gatherings exempted from the prohibition;
  - (d) empower the Chief Secretary for Administration to permit multi-household gatherings under certain circumstances;
  - (e) prescribe the offences for persons involved in a prohibited multi-household gathering, and provide for certain defences;

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- (f) provide for the payment of a fixed penalty to discharge the liability for the offence of participating in a prohibited multi-household gathering; and
  - (g) empower authorized officers to require information or assistance in relation to the private premises.
- 3. The Prevention and Control of Disease (Requirements and Directions) (Business and Premises) (Amendment) Regulation 2022 amends the Prevention and Control of Disease (Requirements and Directions) (Business and Premises) Regulation (Cap. 599 sub. leg. F) (*Cap. 599F*) to, among other things, add to Part 1 of Schedule 2 to Cap. 599F religious premises.
- 4. This Regulation also consequentially amends the principal Regulation to repeal the exemptions for gatherings during a religious activity (other than a wedding ceremony) so that they are to be regulated under Cap. 599F.