

Prevention and Control of Disease (Prohibition on Gathering) Regulation

(Cap. 599 sub. leg. G)

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Prevention and Control of Disease (Prohibition on Gathering) Regulation

(L.N. 13 of 2022)

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

[29 March 2020]

Part 1

Preliminary

(L.N. 53 of 2021)

1. Commencement

This Regulation comes into operation on 29 March 2020.

2. Interpretation

In this Regulation—

authorized officer (獲授權人員) means an authorized officer appointed under section 14(1);

Cap. 599F direction (《第599F章》指示) means a direction issued under section 6 or 8 of the Prevention and Control of Disease (Requirements and Directions) (Business and Premises) Regulation (Cap. 599 sub. leg. F); *(L.N. 201 of 2020)*

Cap. 599F premises (《第599F章》處所) means any premises in relation to which a Cap. 599F direction is in force; *(L.N. 223 of 2020)*

exempted gathering (豁免聚集) means a gathering specified in Part 1 of Schedule 1; (*L.N. 13 of 2022*)

fixed penalty (定額罰款) means the fixed penalty under section 8(1) or 8G(1); (*L.N. 13 of 2022*)

group gathering (羣組聚集) means a gathering of more than 12 persons; (*L.N. 49 of 2022 and L.N. 146 of 2022; L.N. 193 of 2022*)

licensee (持牌人) means a licensed travel agent as defined by section 2(1) of the Travel Industry Ordinance (Cap. 634); (*L.N. 193 of 2022*)

multi-household gathering (多戶聚集) means a gathering of persons ordinarily living in more than 2 households; (*L.N. 13 of 2022*)

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); (*L.N. 13 of 2022*)

prohibited group gathering (受禁羣組聚集) means a group gathering the taking place of which is prohibited under section 3;

prohibited multi-household gathering (受禁多戶聚集) means a multi-household gathering the taking place of which is prohibited under section 8A; (*L.N. 13 of 2022*)

public place (公眾地方) means a place to which the public or a section of the public may or are permitted to have access from time to time, whether by payment or otherwise;

qualified person (合資格人士) means a person who meets any set of conditions specified under section 5B(1); (*L.N. 103 of 2021*)

relevant requirement or restriction (相關規定或限制), in relation to a group gathering at any Cap. 599F premises, means a requirement or restriction that is—

- (a) specified in the Cap. 599F direction in force in relation to the premises; and
- (b) imposed in relation to a group gathering at the premises;
(*L.N. 223 of 2020*)

Secretary (局長) means the Secretary for Health; (*L.N. 144 of 2022*)

specified disease (指明疾病) means the coronavirus disease 2019 (COVID-19), which is specified in item 8A of Schedule 1 to the Ordinance; (*L.N. 52 of 2020*)

specified period (指明期間) means a period specified under section 4(1).

(*L.N. 13 of 2022*)

2A. (*Repealed L.N. 49 of 2022 and L.N. 146 of 2022*)

Part 2

Prohibition on Group Gatherings

(L.N. 53 of 2021)

3. Prohibition on group gathering during specified period

- (1) The following group gatherings are prohibited from taking place during a specified period—
 - (a) a group gathering at a public place other than Cap. 599F premises; and
 - (b) a group gathering at any Cap. 599F premises in relation to which a relevant requirement or restriction is not complied with. *(L.N. 223 of 2020)*
- (2) Subsection (1) does not apply to—
 - (a) an exempted gathering; and *(L.N. 53 of 2021; L.N. 13 of 2022)*
 - (b) a group gathering that is permitted under section 5(1).

4. Period specified by Secretary for section 3

(L.N. 13 of 2022)

- (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 3(1)*.
- (2) Any period specified under subsection (1) must not exceed 14 days.
- (3) Any notice published under subsection (1) is not subsidiary legislation.

Prevention and Control of Disease (Prohibition on Gathering) Regulation

Part 2

2-4

Section 5

Cap. 599G

* Editorial Note:

Notice	Period specified	With effect from
G.N. (E.) 1155 of 2022	15 December 2022 to 28 December 2022	15 December 2022

5. Chief Secretary for Administration may permit group gathering

- (1) The Chief Secretary for Administration (*Chief Secretary*) may permit any group gathering for the purposes of section 3(2)(b) 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 3

Group Gatherings Participated by Qualified Persons

(Part 3 added L.N. 53 of 2021)

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 gathering specified in item 20 of Part 1 of Schedule 1; *(L.N. 103 of 2021; L.N. 127 of 2021; L.N. 13 of 2022)*

Note without legislative effect—

For ease of reference, item 20 of Part 1 of Schedule 1 relates to certain tours. *(L.N. 13 of 2022)*

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 gathering specified in item 19 of Part 1 of Schedule 1; (L.N. 13 of 2022)

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 (whether related to the person or not). (*L.N. 103 of 2021*)
- (1A) Without limiting subsection (1)(f), the Secretary may specify a condition under subsection (1) by reference to whether a certain proportion of persons participating in the group gathering concerned has met any other condition specified under subsection (1). (*L.N. 103 of 2021*)
- (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).

*Editorial Note:

Notice	Specifications of conditions in respect of qualified persons
G.N. (E.) 1166 of 2022	See items (I) and (II) of the Notice
Remarks: G.N. (E.) 944 of 2022 has been suspended from 22 December 2022.	

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
 - (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.
-

Part 4

Offence related to Prohibited Group Gatherings

(L.N. 53 of 2021)

6. Offence if prohibited group gathering takes place

- (1) If a prohibited group 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 place or premises at which the gathering takes place; and *(L.N. 223 of 2020)*
 - (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.

7. Defence for offence under section 6

- (1) It is a defence for a person who is charged with an offence under section 6(1) in respect of a prohibited group gathering to establish that, at the time of the alleged offence, the person had lawful authority or reasonable excuse—
 - (a) if section 6(1)(a) applies—for participating in the gathering;
 - (b) if section 6(1)(b) applies—for organizing the gathering;
or

- (c) if section 6(1)(c) applies—for allowing the taking place of the gathering. (*L.N. 53 of 2021*)
- (1A) It is a defence for a person who is charged with an offence under section 6(1) in respect of a prohibited group gathering that took place at any Cap. 599F premises to establish that, at the time of the alleged offence— (*L.N. 223 of 2020*)
- (a) the person had not contravened any relevant requirement or restriction that applied to the person (***applicable requirement or restriction***); (*L.N. 223 of 2020*)
- (ab) the person had taken all reasonable steps to comply with all applicable requirements or restrictions; or (*L.N. 223 of 2020*)
- (b) there was no such applicable requirement or restriction. (*L.N. 201 of 2020*)
- (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. (*L.N. 53 of 2021*)

- (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. (*L.N. 53 of 2021*)
- (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.
- (3) In this section—
- exempted qualified persons' gathering*** (獲豁免合資格人士聚集) means an exempted gathering specified in item 20 of Part 1

of Schedule 1; (*L.N. 103 of 2021; L.N. 127 of 2021; L.N. 13 of 2022*)

Note without legislative effect—

For ease of reference, item 20 of Part 1 of Schedule 1 relates to certain tours. (*L.N. 13 of 2022*)

exempted tour gathering (獲豁免旅行團聚集) means an exempted gathering specified in item 19 of Part 1 of Schedule 1; (*L.N. 13 of 2022*)

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. (*L.N. 53 of 2021*)

8. Fixed penalty in discharge of liability under section 6(1)(a)

- (1) If a person commits an offence under section 6(1)(a), the person may, in accordance with Schedule 2, discharge liability for the offence by paying a fixed penalty of \$5,000. (*L.N. 241 of 2020*)
- (2) Schedule 2 provides for matters relating to the fixed penalty.

Part 4A

Prohibition on Multi-Household Gatherings

(Part 4A added L.N. 13 of 2022)

8A. Prohibition on multi-household gatherings

- (1) A multi-household gathering at any private premises other than Cap. 599F premises is prohibited from taking place during a period specified under section 8B(1). *(L.N. 49 of 2022)*
- (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.

Part 4B

Offence related to Prohibited Multi-Household Gatherings

(Part 4B added L.N. 13 of 2022)

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.
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Part 5

Enforcement Powers

(L.N. 53 of 2021)

9. Power to demand personal details and inspect proof of identity

- (1) This section applies if an authorized officer has reason to believe that a person is committing or has committed an offence under section 6(1) or 8E(1). *(L.N. 13 of 2022)*
- (2) The authorized officer may, for issuing or serving a summons or other document in relation to the offence, require the person to—
 - (a) supply the person's name, date of birth, address and contact telephone number (if any); and
 - (b) produce for inspection the person's proof of identity.
- (3) A person who, without reasonable excuse, fails to comply with a requirement made under subsection (2) commits an offence and is liable on conviction to a fine at level 3.
- (4) A person who, in purported compliance with a requirement made under subsection (2), knowingly or recklessly supplies any information that is false or misleading in a material particular commits an offence and is liable on conviction to a fine at level 3. *(L.N. 53 of 2021)*
- (5) In this section—

proof of identity (身分證明文件) has the same meaning as in section 17B of the Immigration Ordinance (Cap. 115).

10. Power to disperse prohibited group gathering etc. in public place

(L.N. 223 of 2020)

- (1) An authorized officer may disperse a gathering in a public place if—
 - (a) the officer reasonably believes that the gathering is a prohibited group gathering; or
 - (b) the gathering is a dispersable gathering within the meaning of subsection (2).
- (2) For subsection (1)(b), if the distance between any participant of a gathering in a public place and any participant of another gathering in the place is less than 1.5 m and the total number of participants of the gatherings exceeds 12, then each of the gatherings is a dispersable gathering. (*L.N. 59 of 2020; L.N. 125 of 2020; L.N. 141 of 2020; L.N. 151 of 2020; L.N. 162 of 2020; L.N. 235 of 2020; L.N. 28 of 2021; L.N. 13 of 2022; L.N. 49 of 2022 and L.N. 146 of 2022; L.N. 193 of 2022*)
- (3) For the purposes of exercising a power conferred by subsection (1), an authorized officer may—
 - (a) give any order that the officer reasonably considers necessary or expedient;
 - (b) use any force that is reasonably necessary to disperse a gathering that the officer reasonably believes to be a prohibited group gathering; and
 - (c) enter any public place in which the officer reasonably believes that a prohibited group gathering or a dispersable gathering is taking place.
- (4) A person who, without reasonable excuse, refuses or wilfully neglects to obey an order given under subsection (3)(a) commits an offence and is liable on conviction to a fine at level 4 and to imprisonment for 6 months.

11. Power to enter and inspect public place or Cap. 599F premises

(L.N. 223 of 2020)

An authorized officer may do any or all of the following for ascertaining whether section 3(1) is being or has been complied with—

- (a) at any reasonable time enter and inspect any public place or Cap. 599F premises as the officer reasonably considers necessary; *(L.N. 223 of 2020)*
- (b) require the person who owns, controls or operates the place or premises— *(L.N. 223 of 2020)*
 - (i) to produce any document or article in the person's possession that relates to any activity carried out in the place or premises that the officer reasonably believes to be a prohibited group gathering; or *(L.N. 223 of 2020)*
 - (ii) to furnish any information in the person's possession that relates to the activity;
- (c) inspect, examine and copy any such document, article or information; *(L.N. 53 of 2021)*
- (d) conduct any examination and inquiry that the officer reasonably considers necessary;
- (e) 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;
- (f) if an authorized officer reasonably believes that an offence has been committed under section 6(1) in respect of the place or premises—seize, remove or detain any thing found in the place or premises that appears to the officer to be evidence of the offence. *(L.N. 223 of 2020)*

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.

(L.N. 13 of 2022)

12. Power to enter and search premises with warrant for investigation

- (1) If satisfied by information on oath that there are reasonable grounds for suspecting that there is on any premises any thing 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 any thing 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 Regulation.

13. Obstruction of authorized officer etc. prohibited

- (1) A person must not delay, obstruct, hinder or molest an authorized officer who is performing a function under this Regulation.
- (2) A person must comply with a requirement made by an authorized officer in the performance of a function under this Regulation.
- (3) A person who, without reasonable excuse, contravenes subsection (1) or (2) commits an offence and is liable on conviction to a fine at level 3.
- (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. (*L.N. 53 of 2021*)

14. Authorized officers

- (1) The Director may, in writing, appoint any public officer as an authorized officer for the purposes of any provisions of this Regulation. (*L.N. 223 of 2020; L.N. 53 of 2021*)

Prevention and Control of Disease (Prohibition on Gathering) Regulation

Part 5

5-12

Section 14

Cap. 599G

- (1A) An authorized officer must, if so required, produce written proof of his or her appointment before performing a function under this Regulation. *(L.N. 223 of 2020)*
 - (2) No personal liability is incurred by an authorized officer or a person acting under the officer's direction in respect of any thing done or omitted to be done by the officer or person in good faith in the performance or purported performance of a function under this Regulation.
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Part 6

Miscellaneous

(L.N. 53 of 2021)

15. Notices and certificates

The Director may specify the form of any notice or certificate for the purposes of this Regulation.

16. Expiry

This Regulation expires at midnight on 31 March 2023.

(L.N. 119 of 2020; L.N. 148 of 2020; L.N. 248 of 2020; L.N. 28 of 2021; L.N. 143 of 2021; L.N. 40 of 2022; L.N. 172 of 2022)

Schedule 1

[ss. 2, 5A, 7 & 8C]

(L.N. 53 of 2021; L.N. 13 of 2022)

Exempted Gatherings

(L.N. 13 of 2022)

Part 1

Exempted Gatherings

(L.N. 53 of 2021; L.N. 13 of 2022)

1. A gathering for the purposes of or related to transportation
2. A gathering for performing any governmental function
3. A gathering for performing any function of a statutory body or an advisory body of the Government
4. A gathering at a place of work for the purposes of work
5. A gathering for obtaining or receiving hospital or healthcare service at a healthcare facility
6. A gathering of persons ordinarily living in the same household
(L.N. 13 of 2022)
7. A gathering for— *(L.N. 13 of 2022)*
 - (a) the conduct of proceedings in a court, magistrates' court or tribunal;
 - (b) the performance of any function of a judge or judicial officer; or

(c) the conduct of any other business of the Judiciary
(*L.N. 59 of 2020*)

8. A gathering necessary for the proceedings in the Legislative Council or a District Council
9. A gathering during a funeral, or during any other occasion for mourning for or remembering a deceased who has yet to be buried or cremated (including any ritual or ceremony held in the vicinity of the place where the deceased died or suffered fatal injury to mourn for the death of the deceased)
- 9A. (*Repealed L.N. 127 of 2021*)
- 9B. (*Repealed L.N. 127 of 2021*)
10. (*Repealed L.N. 125 of 2020*)
11. (*Repealed L.N. 127 of 2021*)
- 11A. (*Repealed L.N. 127 of 2021*)
12. A gathering held for imparting information or skills, or handling supplies or items, that are conducive to the prevention and control of the specified disease
13. (*Repealed L.N. 223 of 2020*)
14. (*Repealed L.N. 141 of 2020*)
- 15-16. (*Repealed L.N. 235 of 2020*)
- 17-18. (*Repealed L.N. 13 of 2022*)
19. A gathering of not more than 30 persons— (*L.N. 13 of 2022*)
 - (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 (*L.N. 53 of 2021*)
- 20. A gathering of not more than 100 persons— (*L.N. 13 of 2022*)
 - (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 participants is a qualified person, (*L.N. 127 of 2021*)except when taking place at any Cap. 599F premises (*L.N. 103 of 2021*)

(L.N. 13 of 2022)

Part 2

Interpretation

1. In this Schedule—

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.

(L.N. 103 of 2021; L.N. 127 of 2021)

Prevention and Control of Disease (Prohibition on Gathering) Regulation

Schedule 1—Part 2

S1-8

Cap. 599G

(Part 2 added L.N. 53 of 2021)

Schedule 2

[ss. 8 & 8G]
(L.N. 13 of 2022)

Fixed Penalty

Part 1

Interpretation

1. Interpretation

In this Schedule—

Authority (當局) means—

- (a) the Director;
- (b) the Commissioner of Police;
- (c) the Director of Agriculture, Fisheries and Conservation;
- (d) the Director of Food and Environmental Hygiene;
- (e) the Director of Home Affairs;
- (f) the Director of Housing; (L.N. 28 of 2021)
- (g) the Director of Leisure and Cultural Services; or (L.N. 52 of 2020; L.N. 28 of 2021)
- (h) the Commissioner for Labour; (L.N. 28 of 2021)

demand notice (繳款通知書) means a demand notice served under section 4(2) of this Schedule;

penalty notice (罰款通知書) means a penalty notice given under section 2(2) of this Schedule;

recovery order (追討令) means an order made under section 7(2) of this Schedule;

specified form (指明格式) means a form specified under section 15.

Part 2

Penalty Notice and Demand Notice

2. Authorized officer may give penalty notice

- (1) This section applies if an authorized officer has reason to believe that a person is committing or has committed an offence under section 6(1)(a) or 8E(1)(a). (*L.N. 13 of 2022*)
- (2) The authorized officer may give the person a penalty notice in the specified form offering the person an opportunity to discharge the person's liability for the offence by paying the fixed penalty within 21 days after the date on which the notice is given.
- (3) A penalty notice must be given by the authorized officer personally to the person.

3. No prosecution or conviction if compliance with penalty notice

- (1) This section applies to a person who has been given a penalty notice in respect of an offence under section 6(1)(a) or 8E(1)(a). (*L.N. 13 of 2022*)
- (2) Subject to section 6 of this Schedule, the person is not liable to be prosecuted or convicted for the offence if the person has paid the fixed penalty within 21 days after the date on which the penalty notice is given.

4. Authority may serve demand notice in case of failure to pay fixed penalty etc.

(*L.N. 52 of 2020*)

- (1) This section applies if—

- (a) a person—
 - (i) has been given a penalty notice in respect of an offence under section 6(1)(a) or 8E(1)(a); and (*L.N. 13 of 2022*)
 - (ii) fails to pay the fixed penalty within 21 days after the date on which the notice is given; or
 - (b) a person refuses to accept a penalty notice intended to be given to the person in respect of the offence.
- (2) The Authority may serve on the person a demand notice in the specified form— (*L.N. 52 of 2020*)
- (a) demanding payment of the fixed penalty;
 - (b) informing the person that the person must notify the Authority in writing if the person wishes to dispute liability for the offence; and (*L.N. 52 of 2020*)
 - (c) stating that the payment or notification must be made within 10 days after the date on which the demand notice is served.
- (3) A demand notice may not be served later than—
- (a) if subsection (1)(a) applies—6 months after the date on which the penalty notice is given; or
 - (b) if subsection (1)(b) applies—6 months after the date on which the person refuses to accept the penalty notice.
- (4) A demand notice may be served by sending it by post to the person's address.
- (5) A certificate of posting in the specified form purporting to be signed by or for the Authority is admissible in evidence in any proceedings under this Regulation. (*L.N. 52 of 2020*)
- (6) Unless there is evidence to the contrary, it is presumed that—
- (a) the certificate was signed by or for the Authority; and (*L.N. 52 of 2020*)

- (b) the demand notice to which the certificate relates was duly served.

5. No prosecution or conviction if compliance with demand notice

- (1) This section applies to a person on whom a demand notice has been served in respect of an offence under section 6(1)(a) or 8E(1)(a). (*L.N. 13 of 2022*)
- (2) Subject to section 6 of this Schedule, the person is not liable to be prosecuted or convicted for the offence if the person has paid the fixed penalty within 10 days after the date on which the demand notice is served.

6. Withdrawal of penalty notice or demand notice

- (1) The Authority may withdraw a penalty notice given, or a demand notice served, in respect of an offence under section 6(1)(a) or 8E(1)(a)— (*L.N. 52 of 2020; L.N. 13 of 2022*)
 - (a) at any time before a recovery order is made; or
 - (b) at any time before any proceedings for the offence commence.
- (2) If a penalty notice or demand notice is withdrawn—
 - (a) the Authority must serve notice of the withdrawal on the person to whom, or on whom, the penalty notice or demand notice has been given or served; and
 - (b) on application by the person, the Authority must refund, through the Director of Accounting Services, any amount paid for the fixed penalty. (*L.N. 52 of 2020*)
- (3) If a penalty notice or demand notice is withdrawn, proceedings for the offence may only be commenced where—
 - (a) the ground, or one of the grounds, on which the notice is withdrawn is that it contains incorrect information; and

- (b) the incorrect information was supplied by the person to whom, or on whom, the notice was given or served.

Part 3

Recovery of Fixed Penalty

7. Recovery of fixed penalty

- (1) This section applies if a person on whom a demand notice has been served—
 - (a) fails to pay the fixed penalty in accordance with the notice; and
 - (b) fails to notify the Authority in accordance with the notice that the person wishes to dispute liability for the offence. (*L.N. 52 of 2020*)
- (2) On application made in the name of the Secretary for Justice and production of the documents specified in subsection (3), a magistrate must order the person to pay, within 14 days after the date of service of notice of the order—
 - (a) the fixed penalty;
 - (b) an additional penalty equal to the amount of the fixed penalty; and
 - (c) \$300 by way of costs.
- (3) The documents are—
 - (a) a copy of the demand notice;
 - (b) a certificate of posting relating to the demand notice under section 4(5) of this Schedule; and
 - (c) a certificate under section 8 of this Schedule.

- (4) A magistrate must cause notice of a recovery order to be served on the person against whom it is made and it may be served by sending it by post to the person's address.
- (5) An application may be made in the absence of the person and the Secretary for Justice may appoint a person or class of persons to make an application.

8. Evidentiary certificate

- (1) A certificate in the specified form stating the matters in subsection (2) and purporting to be signed by or for the Authority is admissible in evidence in any proceedings under this Regulation.
- (2) The matters are—
 - (a) that the person specified in the certificate had not, before the date of the certificate, paid the fixed penalty;
 - (b) that the person specified in the certificate had not, before the date of the certificate, notified the Authority that the person wished to dispute liability for the offence; and
 - (c) that the address specified in the certificate was, on the date specified in the certificate in relation to the address, the person's address.
- (3) Unless there is evidence to the contrary—
 - (a) it is presumed that the certificate was signed by or for the Authority; and
 - (b) the certificate is evidence of the facts stated in it.

(L.N. 52 of 2020)

9. Consequences of compliance with recovery order or failure to do so

- (1) This section applies to a person against whom a recovery order is made.

- (2) If the person has complied with the recovery order, the person is not liable to be prosecuted or convicted for the offence to which the order relates.
- (3) If the person fails to comply with the recovery order, the person—
 - (a) is to be regarded, for the purposes of section 68 of the Magistrates Ordinance (Cap. 227), as having failed to pay the sum adjudged to be paid by a conviction; and
 - (b) is liable to be imprisoned under that section.

10. Application for review of recovery order

- (1) A person against whom a recovery order is made may apply to a magistrate for review of the order.
- (2) An application must be made within 14 days after the date on which the recovery order first came to the personal notice of the applicant.
- (3) The applicant must give reasonable notice of the application to the Authority. (*L.N. 52 of 2020*)
- (4) An application may be made in person or by counsel or solicitor.
- (5) For securing the attendance of witnesses and generally for conducting the proceedings, the magistrate has all the powers of a magistrate hearing a complaint under the Magistrates Ordinance (Cap. 227).

11. Outcome of review

- (1) On application under section 10 of this Schedule, a magistrate may rescind a recovery order if satisfied that the demand notice did not come to the personal notice of the applicant without any fault of the applicant.

- (2) If the magistrate rescinds a recovery order, and the applicant wishes to dispute liability for the offence to which the order relates, the magistrate must give leave to that effect.
- (3) If the magistrate rescinds a recovery order, and the applicant does not wish to dispute liability for the offence to which the order relates, the magistrate—
 - (a) must order the applicant to pay the fixed penalty within 10 days after the date of an order made under this paragraph; and
 - (b) must order that, if the applicant fails to pay the fixed penalty within that period, the applicant must immediately pay—
 - (i) the fixed penalty;
 - (ii) an additional penalty equal to the amount of the fixed penalty; and
 - (iii) \$300 by way of costs.
- (4) Despite section 26 of the Magistrates Ordinance (Cap. 227), if a magistrate gives leave under subsection (2), proceedings may be commenced within 6 months after the date on which the magistrate gives the leave.
- (5) If the applicant fails to comply with the order under subsection (3)(b), the applicant—
 - (a) is to be regarded, for the purposes of section 68 of the Magistrates Ordinance (Cap. 227), as having failed to pay the sum adjudged to be paid by a conviction; and
 - (b) is liable to be imprisoned under that section.
- (6) If the applicant has complied with the order under subsection (3)(a) or (b), the applicant is not liable to be prosecuted or convicted for the offence to which the order relates.

Part 4

Proceedings if Person Disputes Liability

12. Dispute of liability for offence

- (1) This section applies if—
 - (a) a person has notified the Authority in accordance with a demand notice that the person wishes to dispute liability for an offence under section 6(1)(a) or 8E(1)(a); or (*L.N. 52 of 2020*)
 - (b) a person has been given leave under section 11(2) of this Schedule to dispute liability for an offence under section 6(1)(a) or 8E(1)(a). (*L.N. 13 of 2022*)
- (2) A summons issued in any proceedings against the person for the offence may be served on the person in accordance with section 8 of the Magistrates Ordinance (Cap. 227).
- (3) If—
 - (a) in consequence of the notification or leave, the person appears in any proceedings in answer to a summons; and
 - (b) the person is convicted of the offence after having offered no defence or a defence that is frivolous or vexatious,the magistrate before whom the proceedings are heard must, in addition to any other penalty and costs, impose an additional penalty equal to the amount of the fixed penalty.
- (4) Any proceedings commenced against a person falling within subsection (1)(a) must terminate if the person pays in accordance with subsection (5)—
 - (a) the fixed penalty;

- (b) an additional penalty equal to the amount of the fixed penalty; and
 - (c) \$500 by way of costs.
- (5) Payment under subsection (4) must be made at any magistrates' court not less than 2 days before the day specified in the summons for the person's appearance, and the summons must be produced at the time of the payment.
- (6) Neither a Saturday nor a public holiday may be included in the computation of the 2 days' period mentioned in subsection (5).

Part 5

General Provisions for Proceedings

13. Power to rescind order on application by Authority

(L.N. 52 of 2020)

At any time, a magistrate may for good cause, on application by the Authority, rescind— *(L.N. 52 of 2020)*

- (a) an order for the payment of the fixed penalty; and
- (b) any other order made under this Schedule in the same proceedings.