

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

## **(Cap. 599 sub. leg. F)**

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

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

[28 March 2020]

### Part 1

#### Preliminary

##### 1. Commencement

This Regulation comes into operation on 28 March 2020.

##### 2. Interpretation

In this Regulation—

**authorized officer** (獲授權人員) means a public officer appointed under section 11(1); (*L.N. 52 of 2021*)

**catering business premises** (餐飲業務處所) means premises (whether or not used for consumption of food or drink) of a catering business that sells or supplies food or drink for consumption on its premises, or any part of them; (*L.N. 52 of 2021*)

**event premises** (活動場所) means the premises set out in item 17 of Part 1 of Schedule 2; (*L.N. 126 of 2021*)

**fixed penalty** (定額罰款) means the fixed penalty under section 13B(1); (*L.N. 52 of 2021*)

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**manager** (管理人), in relation to any premises, means the person who is responsible for the management or is in charge or control of the premises;

**organizer** (組織者), in relation to a specified event, means a person who organizes the event; (*L.N. 126 of 2021*)

**person responsible for carrying on a catering business** (餐飲業務負責人), in relation to a catering business, includes the owner, proprietor and manager of the business;

**scheduled premises** (表列處所) means any premises set out in Part 1 of Schedule 2, or any part of them; (*L.N. 52 of 2021*)

**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. 51 of 2020; L.N. 126 of 2021*)

**specified event** (指明活動) means an event (including a meeting, forum, symposium, exhibition, ceremonial event and celebratory event) that satisfies the following conditions—

- (a) the organizer of the event adopts access control measures to check the persons who intend to enter the event premises for their authority or eligibility for being present at the event;
- (b) only the following persons are present at the event—
  - (i) the organizer;
  - (ii) any person who provides services in relation to the event; and
  - (iii) any person who—
    - (A) attends the event pursuant to an invitation to do so made by or on behalf of the organizer

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specifically to the person or a particular group of persons to which the person belongs;

- (B) attends the event pursuant to a prior acceptance by or on behalf of the organizer of the person's offer or request to attend the event;
  - (C) attends the event as a representative of a body or organization that was specifically invited by or on behalf of the organizer to send representatives to attend the event; or
  - (D) holds a permit to attend the event given by or on behalf of the organizer before the commencement of the event; and
- (c) the event is not an exempted gathering (as defined by section 2 of the Prevention and Control of Disease (Prohibition on Gathering) Regulation (Cap. 599 sub. leg. G)). (*L.N. 126 of 2021; L.N. 12 of 2022*)
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## Part 2

### Requirements and Directions in Relation to Catering Business

- 3. Requirement to cease selling food or drink etc. during specified period**
- (1) A person responsible for carrying on a catering business must, during a period specified by the Secretary under section 4(1)—
    - (a) cease selling or supplying food or drink for consumption on the premises of the business; and
    - (b) close any premises, or part of the premises, on which food or drink is sold or supplied by the business for consumption on the premises.
  - (2) Subsection (1) applies despite any licence, approval, authorization, permit or exemption issued, given or granted under any Ordinance in relation to the business or the premises.
  - (3) Subsection (1) does not apply to—
    - (a) a catering business carried on at any premises set out in Part 1 of Schedule 1;
    - (b) a catering business designated under section 7A(1); or
    - (c) a catering business falling within a category of catering businesses designated under section 7A(1). (*L.N. 150 of 2020*)
  - (4) For the purposes of subsection (1), food or drink sold or supplied by a hotel or guesthouse as part of room service is

not to be regarded as being sold or supplied for consumption on the premises.

- (5) For the purposes of subsection (1), an area is to be regarded as part of the premises of a catering business if—
- (a) seating or tables are made available (whether or not by the business) in the area for customers of the business; and
  - (b) the area—
    - (i) is adjacent to the premises of the business; or
    - (ii) forms part of any premises within which the premises of the business are situated. (*L.N. 150 of 2020*)
- (5A) If subsection (1) imposes a requirement on a person (***responsible person***) in relation to the premises of a catering business, and an area is regarded under subsection (5) as part of those premises, then subsection (1) is to be construed as also imposing the same requirement, in relation to that area, on the following person (***provider***) as if the provider were the responsible person—
- (a) for subsection (5)(b)(i)—a person by whom the seating or tables are made available in that area;
  - (b) for subsection (5)(b)(ii)—a manager of the premises of which that area forms part. (*L.N. 150 of 2020*)
- (6) A person who contravenes subsection (1) or (5A) commits an offence and is liable on conviction to a fine at level 5 and to imprisonment for 6 months. (*L.N. 150 of 2020; L.N. 222 of 2020*)
- (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). (*L.N. 222 of 2020*)

**4. Period specified by Secretary**

- (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.

**5. (*Repealed L.N. 150 of 2020*)**

**6. Directions of Secretary in relation to catering business**

- (1) For preventing, protecting against, delaying or otherwise controlling the incidence or transmission of the specified disease, the Secretary may issue a direction imposing requirements or restrictions, for a period specified in the direction, in relation to any or all of the following—
  - (a) any catering business that sells or supplies food or drink for consumption on its premises or any activity carried out by any person on any catering business premises, including the mode of operation of the business or activity;
  - (b) the closing of any catering business premises;
  - (c) the opening hours of the business on a day. (*L.N. 52 of 2021*)
- (1A) A direction issued under subsection (1) does not apply to—

- (a) a catering business designated under section 7A(1); or
  - (b) a catering business falling within a category of catering businesses designated under section 7A(1). (*L.N. 150 of 2020*)
- (2) A period specified in any direction issued under subsection (1) must not exceed 14 days.
- (3) The Secretary may impose different requirements or restrictions under subsection (1) for— (*L.N. 52 of 2021*)
- (a) different categories or descriptions of catering businesses; and
  - (b) different categories or descriptions of persons entering or present on any catering business premises. (*L.N. 52 of 2021*)
- (4) Any direction issued under subsection (1)—
- (a) must be published in the Gazette\*; and
  - (b) is not subsidiary legislation.

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Editorial Note:

\* See G.N. (E.) 45 of 2023.

**7. Person responsible for carrying on a catering business must comply with directions of Secretary**

- (1) A person responsible for carrying on a catering business must comply with any direction issued under section 6(1) that applies in relation to the business. (*L.N. 52 of 2021*)
- (2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 5 and to imprisonment for 6 months. (*L.N. 222 of 2020*)

**7AA. Persons entering or present on catering business premises must**

**comply with directions**

- (1) A person who enters, or is present on, any catering business premises must comply with any direction issued under section 6(1) that applies in relation to the person.
- (2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 3.
- (3) A person who, in purported compliance with a direction issued under section 6(1), provides any record, document or information that is false or misleading in a material particular is to be regarded as not having complied with the direction.

*(L.N. 52 of 2021)*

**7AAB. Powers of managers and police officers as regards directions for catering business**

- (1) The manager of any catering business premises may, for securing compliance with any direction issued under section 6(1) as required under section 7(1) or 7AA(1)—
  - (a) require a person who enters, or is present on, the premises to provide any record, document or information that is necessary for securing compliance with the direction; and
  - (b) inspect and examine such record, document or information.
- (2) If a person fails to comply with a requirement made to the person under subsection (1) or contravenes section 7AA(1), the manager of the catering business premises may—
  - (a) deny entry to the premises to the person; or
  - (b) require the person to leave the premises.
- (3) If the person fails to leave the premises when required to do so under subsection (2)(b), a police officer may—

- (a) remove the person from the premises; and
  - (b) use reasonable force in the removal.
- (4) Subsections (1) and (2) do not limit any rights of a manager of catering business premises under any law or contract.
- (5) In this section—
- manager* (管理人) includes a person authorized by a manager for the purposes of this section.

*(L.N. 52 of 2021)*

**7A. Chief Secretary for Administration may designate certain catering businesses for sections 3 and 6**

- (1) The Chief Secretary for Administration (*Chief Secretary*) may designate any catering business or category of catering businesses for the purposes of section 3(3)(b) or (c) or 6(1A)(a) or (b) if satisfied that the designation—
- (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 designation.
- (3) The Chief Secretary may cancel a designation or vary a condition attached to a designation.
- (4) A designation, attachment of conditions, cancellation or variation under this section must be made in writing.

*(L.N. 150 of 2020)*

## Part 3

### Directions in Relation to Scheduled Premises

#### 8. Directions of Secretary in relation to scheduled premises

- (1) For preventing, protecting against, delaying or otherwise controlling the incidence or transmission of the specified disease, the Secretary may issue a direction imposing requirements or restrictions, for a period specified in the direction, in relation to any or all of the following—
  - (a) any business carried on, or any activity carried out, by any person on any scheduled premises, including the mode of operation of the business or activity;
  - (b) the closing of any scheduled premises;
  - (c) the opening hours of any scheduled premises on a day.  
*(L.N. 52 of 2021)*
- (1A) A direction issued under subsection (1) does not apply to—
  - (a) any scheduled premises designated under section 9A(1);  
or
  - (b) any scheduled premises falling within a category of scheduled premises designated under section 9A(1).  
*(L.N. 150 of 2020)*
- (2) A period specified in any direction issued under subsection (1) must not exceed 14 days.
- (3) The Secretary may impose different requirements or restrictions under subsection (1) for— *(L.N. 52 of 2021)*
  - (a) different categories or descriptions of scheduled premises; and

- (b) different categories or descriptions of persons entering or present on any scheduled premises. *(L.N. 52 of 2021)*
- (4) Any direction issued under subsection (1)—
  - (a) must be published in the Gazette<sup>\*</sup>; and
  - (b) is not subsidiary legislation.

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Editorial Note:

\* See G.N. (E.) 45 of 2023.

**9. Manager of scheduled premises and organizer of specified event must comply with directions of Secretary**

*(L.N. 126 of 2021)*

- (1) The manager of any scheduled premises (other than event premises), or the organizer of a specified event held on event premises, must comply with any direction issued under section 8(1) that applies in relation to the premises. *(L.N. 52 of 2021)*
- (2) A manager or an organizer who contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 5 and to imprisonment for 6 months. *(L.N. 222 of 2020)*

*(L.N. 126 of 2021)*

**9AA. Persons entering or present on scheduled premises must comply with directions**

- (1) A person who enters, or is present on, any scheduled premises must comply with any direction issued under section 8(1) that applies in relation to the person.
- (2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 3.

- (3) A person who, in purported compliance with a direction issued under section 8(1), provides any record, document or information that is false or misleading in a material particular is to be regarded as not having complied with the direction.

*(L.N. 52 of 2021)*

**9AAB. Powers of managers and police officers as regards directions for scheduled premises**

- (1) The manager of any scheduled premises may, for securing compliance with any direction issued under section 8(1) as required under section 9(1) or 9AA(1)—
- (a) require a person who enters, or is present on, the premises to provide any record, document or information that is necessary for securing compliance with the direction; and
  - (b) inspect and examine such record, document or information.
- (2) If a person fails to comply with a requirement made to the person under subsection (1) or contravenes section 9AA(1), the manager of the scheduled premises may—
- (a) deny entry to the premises to the person; or
  - (b) require the person to leave the premises.
- (3) If the person fails to leave the premises when required to do so under subsection (2)(b), a police officer may—
- (a) remove the person from the premises; and
  - (b) use reasonable force in the removal.
- (4) Subsections (1) and (2) do not limit any rights of a manager of scheduled premises under any law or contract.
- (5) In this section—

*manager* (管理人) includes—

- (a) in relation to scheduled premises that are event premises, the organizer of the specified event for which the premises are for the time being used; and
- (b) a person authorized by a manager or an organizer referred to in paragraph (a) for the purposes of this section. (*L.N. 126 of 2021*)

(*L.N. 52 of 2021*)

**9A. Chief Secretary for Administration may designate certain scheduled premises for section 8**

- (1) The Chief Secretary for Administration (*Chief Secretary*) may designate any scheduled premises or category of scheduled premises for the purposes of section 8(1A)(a) or (b) if satisfied that the designation—
  - (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 designation.
- (3) The Chief Secretary may cancel a designation or vary a condition attached to a designation.
- (4) A designation, attachment of conditions, cancellation or variation under this section must be made in writing.

(*L.N. 150 of 2020*)



## Part 4

### Enforcement Powers

(L.N. 222 of 2020)

#### 10. Interpretation of Part 4

In this Part—

*function* (職能) includes power;

*specified premises* (指明處所) means—

- (a) any premises on which a subject catering business is carried on; or
- (b) any scheduled premises;

*subject catering business* (受規管餐飲業務) means a catering business to which Part 2 applies.

#### 11. Authorized officers

(L.N. 222 of 2020)

- (1) The Secretary may, in writing, appoint a public officer to be an authorized officer for the purposes of any provisions of this Regulation.
- (2) An authorized officer must, if so required, produce written proof of his or her appointment before performing a function under this Regulation.
- (3) No personal liability is incurred by an authorized officer or a person acting under the officer's direction in respect of anything 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.

*(L.N. 222 of 2020; L.N. 52 of 2021)*

## **12. Powers to enter and inspect specified premises**

*(L.N. 222 of 2020)*

- (1) An authorized officer may do any or all of the following for ascertaining whether section 3, or any direction issued under section 6(1) or 8(1), is being or has been complied with—  
*(L.N. 222 of 2020)*
- (a) at any reasonable time enter and inspect any specified premises as the officer considers necessary;
  - (b) require the manager of any specified premises—
    - (i) to produce a book, document or any other article in the manager’s possession that relates to the operation or management of the premises or to any other activity in respect of the premises; or
    - (ii) to furnish any information in the manager’s possession that relates to the operation, management or activity;
  - (ba) require the organizer of a specified event held on event premises—
    - (i) to produce a book, document or any other article in the organizer’s possession that relates to the event; or
    - (ii) to furnish any information in the organizer’s possession that relates to the event; *(L.N. 126 of 2021)*
  - (c) inspect, examine and copy any such book, document, article or information; *(L.N. 52 of 2021)*
  - (d) conduct any examination and inquiry that the officer considers necessary;

- (e) require any person to provide the officer with the assistance or information in the person's possession which the officer considers necessary to enable the officer to perform a function under this Regulation. *(L.N. 52 of 2021)*
- (2) If an authorized officer reasonably suspects that a person is committing or has committed an offence under Part 2 or 3, the officer may do any or all of the following— *(L.N. 222 of 2020; L.N. 52 of 2021)*
  - (a) require the person to—
    - (i) give the person's name, date of birth, address and contact telephone number (if any); and
    - (ii) produce for inspection the person's proof of identity; *(L.N. 52 of 2021)*
  - (b) seize, remove or detain anything that appears to the officer to be evidence of the offence;
  - (c) take samples of anything that the officer may reasonably require for analysis.

- (3) In this section—

***proof of identity*** (身分證明文件) has the meaning given by section 17B of the Immigration Ordinance (Cap. 115). *(L.N. 52 of 2021)*

*(L.N. 222 of 2020)*

## **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 Regulation.  
*(L.N. 52 of 2021)*

*(L.N. 222 of 2020)*

### **13. Obstruction of authorized officers etc. prohibited**

*(L.N. 222 of 2020)*

- (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 or request 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 or request made by an authorized officer in the performance of a function under this Regulation, knowingly or recklessly

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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. 52 of 2021*)

(*L.N. 222 of 2020; L.N. 52 of 2021*)

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## Part 5

### Miscellaneous

*(L.N. 222 of 2020)*

#### **13A. Defence**

- (1) It is a defence for a person charged with an offence under section 3(6), 7(2), 7AA(2), 9(2) or 9AA(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), 7AA(2), 9(2) or 9AA(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.

*(L.N. 222 of 2020; L.N. 52 of 2021)*

#### **13B. Fixed penalty in discharge of liability under section 7AA(2) or 9AA(2)**

- (1) If a person commits an offence under section 7AA(2) or 9AA(2), the person may, in accordance with Schedule 3, discharge liability for the offence by paying a fixed penalty of \$5,000.

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- (2) Schedule 3 provides for matters relating to the fixed penalty.
- (3) The Secretary may, by notice published in the Gazette, specify a public officer as an Authority for the purposes of Schedule 3.
- (4) A notice published under subsection (3) is not subsidiary legislation.

*(L.N. 52 of 2021)*

**13C. Director may specify form of documents**

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

*(L.N. 52 of 2021)*

**14. Expiry**

This Regulation expires at midnight on 31 March 2023.

*(L.N. 118 of 2020; L.N. 147 of 2020; L.N. 247 of 2020; L.N. 27 of 2021; L.N. 142 of 2021; L.N. 39 of 2022; L.N. 171 of 2022)*

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## Schedule 1

[s. 3]

### Premises Set Out for Section 3(3)(a)

#### Part 1

#### Premises

Column 1 Item	Column 2 Type of premises
1.	Hospital
2.	Residential care home
3.	Treatment centre
4.	Boarding school
5.	Premises controlled or managed by the Government
6.	Premises that have been constructed to be used, and are used, as a private dwelling

#### Part 2

#### Interpretation

1. In this Schedule—



***boarding school*** (寄宿學校) means a boarding school within the meaning of the Education Regulations (Cap. 279 sub. leg. A);

***hospital*** (醫院) means a hospital within the meaning of section 4 of the Private Healthcare Facilities Ordinance (Cap. 633) or The Prince Philip Dental Hospital;

***residential care home*** (護理院舍) means—

- (a) a residential care home in respect of which a licence, or a certificate of exemption, as defined by section 2 of the Residential Care Homes (Elderly Persons) Ordinance (Cap. 459) issued or renewed under that Ordinance is in force; or
- (b) a residential care home for persons with disabilities in respect of which a licence, or a certificate of exemption, as defined by section 2 of the Residential Care Homes (Persons with Disabilities) Ordinance (Cap. 613) issued or renewed under that Ordinance is in force;

***treatment centre*** (治療中心) means a treatment centre within the meaning of the Drug Dependent Persons Treatment and Rehabilitation Centres (Licensing) Ordinance (Cap. 566) in respect of which a licence or a certificate of exemption under that Ordinance is in force.

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## Schedule 2

[s. 2]

### Scheduled Premises

#### Part 1

#### Premises

Column 1 Item	Column 2 Type of premises
1.	Amusement game centre
2.	Bathhouse
3.	Fitness centre
4.	Place of amusement
5.	Place of public entertainment
6.	Premises (commonly known as party room) that are maintained or intended to be maintained for hire for holding social gatherings
7.	Beauty parlour ( <i>L.N. 33 of 2020</i> )
8.	Club-house ( <i>L.N. 33 of 2020</i> )
9.	Establishment (commonly known as club or nightclub) that is open late into the night, usually for drinking, and dancing or other entertainment ( <i>L.N. 33 of 2020</i> )

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Column 1	Column 2
Item	Type of premises
10.	Karaoke establishment ( <i>L.N. 33 of 2020</i> )
11.	Mahjong-tin kau premises ( <i>L.N. 33 of 2020</i> )
12.	Massage establishment ( <i>L.N. 33 of 2020</i> )
13.	Sports premises ( <i>L.N. 150 of 2020</i> )
14.	Swimming pool ( <i>L.N. 150 of 2020</i> )
15.	Hotel or guesthouse (except the premises specified in the Schedule to the Hotel and Guesthouse Accommodation (Exclusion) Order (Cap. 349 sub. leg. C)) ( <i>L.N. 222 of 2020</i> )
16.	Cruise ship ( <i>L.N. 102 of 2021</i> )
17.	Premises that— <ul style="list-style-type: none"><li>(a) are not—<ul style="list-style-type: none"><li>(i) private premises; or</li><li>(ii) a place of public entertainment; and</li></ul></li><li>(b) are for the time being used, with the consent of the owner, manager or tenant of the premises, for holding a specified event (<i>L.N. 126 of 2021</i>)</li></ul>
18.	Premises other than a beauty parlour (commonly known as barber shop or hair salon) where a person may have his or her hair on the face or on the head shaved, trimmed, cut or washed, or have other treatments done to the hair ( <i>L.N. 12 of 2022</i> )
19.	Religious premises ( <i>L.N. 12 of 2022</i> )

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Column 1 Item	Column 2 Type of premises
20.	Shopping mall ( <i>L.N. 12 of 2022</i> )
21.	Premises (commonly known as department store) where a wide variety of goods (for example, men's and women's clothing, furniture, electrical appliances and hardware) are sold in separate departments ( <i>L.N. 12 of 2022</i> )
22.	Market ( <i>L.N. 12 of 2022</i> )
23.	Self-service shop (commonly known as supermarket) where fresh produce, food other than fresh produce, beverages and household goods are sold ( <i>L.N. 12 of 2022</i> )

## Part 2

### Interpretation

1. In this Schedule—

***amusement game centre*** (遊戲機中心) means—

- (a) an amusement game centre within the meaning of section 2(1) of the Amusement Game Centres Ordinance (Cap. 435);
- (b) any place that is the subject of an order under section 3(1)(a) of that Ordinance; or
- (c) any area that is specified in an order under section 3(1)(b) of that Ordinance;

***bathhouse*** (浴室) has the meaning given by section 3(1) of the Commercial Bathhouses Regulation (Cap. 132 sub. leg. I);

***beauty parlour*** (美容院) means any premises on which one or more of the following types of services are provided—

- (a) chemical, mechanical or energetic procedure for beautifying purpose, including cosmetic procedures that involve skin puncture for non-medical purpose, on any part of the body (excluding hair on the head);
- (b) nail treatment services (including manicure or pedicure service, nail extension, nail polish and nail art);
- (c) hair loss improvement service (including hair transplant and hair weaving) for non-medical purpose; (*L.N. 33 of 2020*)

***club-house*** (會址) has the meaning given by section 2 of the Clubs (Safety of Premises) Ordinance (Cap. 376); (*L.N. 33 of 2020*)

***cruise ship*** (郵輪) means a vessel—

- (a) carrying passengers exclusively for sightseeing or pleasure purposes;
- (b) plying, along a predetermined route, on any voyage part of which is outside the waters of Hong Kong; and
- (c) the boarding of which involves passage through immigration control; (*L.N. 102 of 2021*)

***fitness centre*** (健身中心) means any premises on which one or more of the following types of services are provided—

- (a) the provision of exercise machines or equipment for use;
- (b) the provision of advice, instruction, training or assistance on improving physical fitness, including—
  - (i) bodybuilding;
  - (ii) dancing;
  - (iii) yoga, pilates or body stretching; and
  - (iv) martial arts;

**hotel or guesthouse** (酒店或賓館) has the meaning given by section 2A of the Hotel and Guesthouse Accommodation Ordinance (Cap. 349); (*L.N. 222 of 2020*)

**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 that can be opened; or
  - (ii) any opening that functions as such a window or door; (*L.N. 12 of 2022*)

**karaoke establishment** (卡拉OK場所) means—

- (a) a karaoke establishment as defined by section 2(1) of the Karaoke Establishments Ordinance (Cap. 573); or
- (b) a karaoke establishment referred to in section 3(1)(a) or (c) of that Ordinance; (*L.N. 33 of 2020*)

**mahjong-tin kau premises** (麻將天九耍樂處所) means any premises that are licensed under section 22 of the Gambling Ordinance (Cap. 148) for the playing on the premises of games in which mahjong or tin kau tiles are used; (*L.N. 33 of 2020*)

**market** (街市、市集) means any indoor premises with one or more dedicated entrances where goods are sold at different stalls or stores at the premises; (*L.N. 12 of 2022*)

**massage establishment** (按摩院) has the meaning given by section 2 of the Massage Establishments Ordinance (Cap. 266); (*L.N. 33 of 2020*)

**place of amusement** (遊樂場所) includes—

- (a) a billiard establishment within the meaning of section 2(1) of the Public Health and Municipal Services Ordinance (Cap. 132);
- (b) a public bowling-alley within the meaning of that section; and
- (c) a public skating rink within the meaning of that section;

**place of public entertainment** (公眾娛樂場所) has the meaning given by section 2 of the Places of Public Entertainment Ordinance (Cap. 172); (*L.N. 150 of 2020*)

**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. 126 of 2021*)

**religious premises** (宗教處所) means premises constructed or regularly used for religious activities, including a church, monastery, nunnery, mosque, synagogue and temple; (*L.N. 12 of 2022*)

**shopping mall** (商場) means any indoor shopping area with a variety of shops, and often restaurants, housed in a single building or in buildings connected by one or more passageways; (*L.N. 12 of 2022*)

**sports premises** (體育處所)—

- (a) means any premises (other than a fitness centre, a place of amusement and a swimming pool) designed, and for the time being used, for indoor or outdoor sporting activities (whether on land or not)— (*L.N. 200 of 2020*)
  - (i) to which the public have access (whether on payment or otherwise); or
  - (ii) that are operated by any club, institution, association or other organization; and

- (b) includes the following land and structures within the premises—
  - (i) any pitch;
  - (ii) any running track;
  - (iii) any sidewalk immediately adjacent to the pitch or running track; and
  - (iv) any spectator stand; (*L.N. 150 of 2020*)

***swimming pool*** (泳池)—

- (a) means any artificially constructed pool used for swimming or bathing (other than a pool specifically designed for use for hydrotherapy or other treatment purpose and a bathhouse)—
    - (i) to which the public have access (whether on payment or otherwise); or
    - (ii) that is operated by any club, institution, association or other organization; and
  - (b) includes—
    - (i) any sidewalk immediately adjacent to the pool;
    - (ii) any facility adjoining the pool; and
    - (iii) any spectator stand of the pool. (*L.N. 150 of 2020*)  
*(L.N. 222 of 2020)*
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## Schedule 3

[s. 13B]

### Fixed Penalty

#### Part 1

#### Interpretation

##### 1. Interpretation

In this Schedule—

*Authority* (當局) means a public officer specified under section 13B(3);

*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 13C.

#### 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 7AA(2) or 9AA(2).

- (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 7AA(2) or 9AA(2).
- (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.**

- (1) This section applies if—
  - (a) a person—
    - (i) has been given a penalty notice in respect of an offence under section 7AA(2) or 9AA(2); and
    - (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—

- (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
  - (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.
- (6) Unless there is evidence to the contrary, it is presumed that—
  - (a) the certificate was signed by or for the Authority; and
  - (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 7AA(2) or 9AA(2).
- (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 7AA(2) or 9AA(2)—
  - (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.
- (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 provided 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.
- (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.

**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.
- (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 7AA(2) or 9AA(2); or
  - (b) a person has been given leave under section 11(2) of this Schedule to dispute liability for an offence under section 7AA(2) or 9AA(2).



- (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

At any time, a magistrate may for good cause, on application by the Authority, rescind—

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

*(Schedule 3 added L.N. 52 of 2021)*