

Prevention and Control of Disease (Compulsory Testing for Certain Persons) Regulation

(Cap. 599 sub. leg. J)

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Part 1

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Section 1

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Prevention and Control of Disease (Compulsory Testing for Certain Persons) Regulation

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

[15 November 2020]

Part 1

Preliminary

1. Commencement

This Regulation comes into operation on 15 November 2020.

2. Interpretation

(1) In this Regulation—

child (兒童) means a person who is under the age of 10; (*L.N. 43 of 2022*)

compulsory testing direction (強制檢測指示) means a direction issued under section 4(2);

compulsory testing notice (強制檢測公告) means a notice published under section 10(1);

compulsory testing order (強制檢測令) means an order made under section 14(2);

fixed penalty (定額罰款) means the fixed penalty under section 24(1);

function (職能) includes a power and a duty; (*L.N. 251 of 2020*)

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mentally incapacitated person (精神上無行為能力的人) means a person who is mentally disordered, or mentally handicapped, within the meaning of the Mental Health Ordinance (Cap. 136); (*L.N. 43 of 2022*)

prescribed officer (訂明人員)—

- (a) in relation to a function under this Regulation concerning a requirement under a compulsory testing direction, means— (*L.N. 251 of 2020*)
 - (i) a health officer; or
 - (ii) a public officer or a member of the Auxiliary Medical Service appointed under section 3(1)(c);
- (b) in relation to a function under this Regulation concerning a requirement under a compulsory testing notice in which a category or description of persons is specified, means— (*L.N. 251 of 2020*)
 - (i) a health officer; or
 - (ii) a public officer or a member of the Auxiliary Medical Service appointed under section 10(1)(c)(ii) in relation to that category or description of persons; or (*L.N. 251 of 2020*)
- (c) in relation to a function under Part 4A concerning a restriction-testing declaration, means—
 - (i) a health officer;
 - (ii) a police officer; or
 - (iii) a public officer appointed under section 19B(6) for performing a function under that Part concerning the declaration; (*L.N. 251 of 2020*)

registered medical practitioner (註冊醫生) means a medical practitioner who is registered in Part I or III of the General

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Register kept under section 6(1) of the Medical Registration Ordinance (Cap. 161);

responsible person (負責人), in relation to a vulnerable person, means—

- (a) a father or mother of the person, including an adoptive father, adoptive mother, stepfather or stepmother;
- (b) the following person—
 - (i) for a child—a person who is assuming guardianship of the child under the Guardianship of Minors Ordinance (Cap. 13); or
 - (ii) for a mentally incapacitated person—a guardian of the person within the meaning of the Mental Health Ordinance (Cap. 136); or
- (c) any other person who has the custody or care of the vulnerable person, such as a domestic helper, or a relative of the vulnerable person, who has such a custody or care; (*L.N. 43 of 2022*)

restriction-testing declaration (限制與檢測宣告) means a declaration made under section 19B(1); (*L.N. 251 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;

specified medical practitioner (指明醫生) means a registered medical practitioner who falls within a class of registered medical practitioners specified under section 3(1)(a);

specified person (指明人士) means a person who falls within a category or description of persons specified under section 10(1)(a);

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specified test (指明檢測), in relation to a person, means a test for ascertaining whether the person has contracted the specified disease; (*L.N. 43 of 2022*)

vulnerable person (需照顧者) means—

- (a) a child; or
 - (b) a mentally incapacitated person. (*L.N. 43 of 2022*)
- (2) In this Regulation, a reference to a member of the Auxiliary Medical Service is to be construed in accordance with the Auxiliary Medical Service Ordinance (Cap. 517).
-

Part 2

Compulsory Testing for Persons Clinically Suspected to have Contracted Specified Disease

3. Secretary may issue notice

- (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—
 - (a) specify a class of registered medical practitioners for the purposes of this Part;
 - (b) specify a period for the purposes of section 4(1); or
 - (c) appoint any public officer or member of the Auxiliary Medical Service for performing a function under this Regulation concerning a requirement under a compulsory testing direction. (*L.N. 251 of 2020*)
- (2) A period specified under subsection (1)(b) must not exceed 14 days.
- (3) A notice published under subsection (1) is not subsidiary legislation.

4. Compulsory testing direction for persons clinically suspected to have contracted specified disease

- (1) This section applies during a period specified under section 3(1)(b).
- (2) If a specified medical practitioner attends a person in the course of professional practice and clinically suspects that the person has contracted the specified disease, the medical

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practitioner may, by written direction issued to the person, require the person to undergo a specified test.

- (3) For the purposes of subsection (2), a specified medical practitioner clinically suspects that a person has contracted the specified disease if the medical practitioner, having exercised a professional judgment on the basis of the signs or symptoms that the person shows, suspects that the person has contracted that disease.
- (4) A compulsory testing direction—
 - (a) may require the person to submit, in the way specified in the direction, the result of a specified test that the person is required to undergo under the direction (*test result*);
 - (b) may include a statement to the effect that if the person has previously undergone, within a preceding period specified in the direction, a specified test that meets the conditions specified in the direction (regardless of whether or not the test was conducted for complying with the Ordinance), the test is taken to be a specified test that the person has undergone in compliance with the requirement under the direction; and (*L.N. 251 of 2020*)
 - (c) for preventing, protecting against, delaying or otherwise controlling the incidence or transmission of the specified disease—
 - (i) may specify any reasonable requirement that the person must comply with until the test result is ascertained; and
 - (ii) without limiting subparagraph (i), may require the person not to leave or enter a particular place

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without the permission of a prescribed officer until the test result is ascertained. (*L.N. 251 of 2020*)

- (5) A compulsory testing direction issued by a specified medical practitioner may only be revoked or varied by that medical practitioner.

5. Notification and provision of information in relation to compulsory testing direction

- (1) A specified medical practitioner who issues a compulsory testing direction must, as soon as reasonably practicable after doing so—
- (a) send, or cause to be sent, to the Director a notification of the issue of the direction; and
 - (b) provide the Director with, or cause the Director to be provided with, any other information that is—
 - (i) within the knowledge, in the possession or under the control of the medical practitioner; and
 - (ii) relevant to the identification and tracing of the person to whom the direction is issued.
- (2) A specified medical practitioner who revokes or varies a compulsory testing direction must, as soon as reasonably practicable after doing so, send, or cause to be sent, to the Director a notification of the revocation or variation (as the case may be).

6. Testing under compulsory testing direction

A person to whom a compulsory testing direction is issued must, in compliance with the requirement under the direction—

- (a) undergo a specified test in accordance with the procedure specified in the direction; or

- (b) undergo a specified test—
 - (i) that is otherwise arranged by the person himself or herself; and
 - (ii) that meets the conditions specified in the direction.

7. Requirements specified in compulsory testing direction

- (1) A compulsory testing direction must specify—
 - (a) in relation to the test mentioned in section 6(a)—the procedure to be followed for the test;
 - (b) in relation to the test mentioned in section 4(4)(b) or 6(b)—the conditions that the test must meet, including where or by whom the test is to be conducted;
 - (c) the deadline by which the person to whom the direction is issued must take all actions that are to be taken by the person for him or her to undergo the test mentioned in section 6(a) or (b);
 - (d) if the result of a specified test is required to be submitted under section 4(4)(a)—
 - (i) the way in which the test result must be submitted; and
 - (ii) the deadline by which the test result must be submitted; and
 - (e) if the direction includes the statement mentioned in paragraph (b) of section 4(4)—the preceding period mentioned in that paragraph.
- (2) A compulsory testing direction may also specify any other requirements that the person must comply with in relation to that person's undergoing of a specified test.

8. Non-compliance with compulsory testing direction

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- (1) A person who fails to comply with a requirement under a compulsory testing direction commits an offence and is liable on conviction to a fine at level 4 and to imprisonment for 6 months. (*L.N. 243 of 2020; L.N. 43 of 2022*)
- (2) It is a defence for a person charged under subsection (1) to establish that—
 - (a) the person had lawful authority or reasonable excuse for the failure to comply with the requirement; or
 - (b) without limiting paragraph (a), the person could not comply with the requirement because of any physical or mental illness, impairment or disability.

9. Immunity from personal liability of specified medical practitioner

- (1) No personal liability is incurred by a specified medical practitioner or a person acting under the direction of the medical practitioner in respect of any thing done or omitted to be done by the medical practitioner or person in good faith in the performance or purported performance of a function under section 4(2).
 - (2) Subsection (1) does not in any way affect any liability of the Government in respect of any thing done or omitted to be done by a specified medical practitioner or a person acting under the direction of the medical practitioner.
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Part 3

Compulsory Testing for Specified Persons

10. Secretary may issue compulsory testing notice

- (1) If the Secretary, having regard to the extent and pattern (whether general or specific) of the spread of the specified disease in Hong Kong or anywhere else in the world and the need to alleviate the effects of that disease on the carrying out of social or economic activities in Hong Kong, is satisfied that the specified condition is met under subsection (2) in relation to a category or description of persons, the Secretary may, by notice published in the Gazette*—
 - (a) specify that category or description of persons for the purposes of this Part;
 - (b) require every person who falls within that category or description to undergo a specified test in compliance with the requirement under the notice; and
 - (c) in relation to that category or description of persons—
 - (i) specify a period for the purposes of section 14(3)(b); and
 - (ii) appoint any public officer or member of the Auxiliary Medical Service for performing a function under this Regulation concerning a requirement under the notice. (*L.N. 251 of 2020*)
- (2) For the purposes of subsection (1), the specified condition is met in relation to a category or description of persons if ascertaining whether persons who fall within that category or description have contracted the specified disease—

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- (a) is necessary for preventing, protecting against, delaying or otherwise controlling the incidence or transmission of that disease because such persons have been, or are likely to have been, exposed to a considerable risk of contracting that disease owing to a personal factor such as presence at a particular place, occupation or place of residence or work;
- (b) is necessary for protecting the health of other persons because—
 - (i) owing to a personal factor such as occupation, persons who fall within that category or description are likely to be in close proximity to such other persons frequently; and
 - (ii) if such other persons contract that disease, considerable health risks are likely to be posed to them owing to a personal factor such as age or health condition;
- (c) is necessary for preventing, protecting against, delaying or otherwise controlling the incidence or transmission of that disease because such persons are likely to be in close proximity to other persons frequently owing to a personal factor such as occupation;
- (d) is necessary for ensuring—
 - (i) a proper supply of goods or services required for the normal operation of Hong Kong or the daily needs of the people of Hong Kong; or
 - (ii) proper governmental operation, because such a supply or such operation (as the case may be) is likely to be significantly hindered if a considerable proportion of such persons are exposed to a considerable risk of contracting that disease; or

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- (e) is necessary for preventing, protecting against, delaying or otherwise controlling the spread of that disease into Hong Kong from a place outside Hong Kong because such persons are persons who have recently arrived at Hong Kong from such a place.
- (3) A compulsory testing notice—
- (a) may require the specified person to undergo a specified test at the frequency specified in the notice;
 - (b) may require the specified person to submit, in the way specified in the notice, the result of a specified test that the person is required to undergo under the notice (*test result*);
 - (c) may include a statement to the effect that if the specified person has previously undergone, within a preceding period specified in the notice, a specified test that meets the conditions specified in the notice (regardless of whether or not the test was conducted for complying with the Ordinance), the test is taken to be a specified test that the person has undergone in compliance with the requirement under the notice; and (*L.N. 251 of 2020*)
 - (d) for preventing, protecting against, delaying or otherwise controlling the incidence or transmission of the specified disease—
 - (i) may specify any reasonable requirement that the specified person must comply with until the test result is ascertained; and
 - (ii) without limiting subparagraph (i), may require the person not to leave or enter a particular place without the permission of a prescribed officer until the test result is ascertained. (*L.N. 251 of 2020*)

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- (4) If a compulsory testing notice is published, the Secretary must, as soon as reasonably practicable after publishing the notice, cause a copy of the notice to be published in 2 newspapers (one being an English language newspaper and the other being a Chinese language newspaper) chosen by the Secretary to maximize the likelihood of the notice coming to the attention of a specified person.
- (5) A compulsory testing notice is not subsidiary legislation.

Editorial Note:

* Please visit the Gazette website maintained by the Government Logistics Department for the Compulsory Testing Notices issued from 2020 to 2023.

11. Testing under compulsory testing notice

A specified person who is required under a compulsory testing notice to undergo a specified test must, in compliance with the requirement under the notice—

- (a) undergo a specified test in accordance with the procedure specified in the notice; or
- (b) undergo a specified test—
- (i) that is otherwise arranged by the person himself or herself; and
- (ii) that meets the conditions specified in the notice.

12. Requirements specified in compulsory testing notice

- (1) A compulsory testing notice must specify—
- (a) in relation to the test mentioned in section 11(a)—the procedure to be followed for the test;
- (b) in relation to the test mentioned in section 10(3)(c) or 11(b)—the conditions that the test must meet, including where or by whom the test is to be conducted;

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- (c) the deadline by which or the date on which a person who falls within a category or description of persons specified in the notice must take all actions that are to be taken by the person for him or her to undergo the test mentioned in section 11(a) or (b);
 - (d) if the result of a specified test is required to be submitted under section 10(3)(b)—
 - (i) the way in which the test result must be submitted; and
 - (ii) the deadline by which or the date on which the test result must be submitted; and
 - (e) if the notice includes the statement mentioned in paragraph (c) of section 10(3)—the preceding period mentioned in that paragraph.
- (2) Without limiting subsection (1), a deadline or date mentioned in that subsection may be specified by reference to a computation of time on the basis of the date on which an event happens or an act is done.
- (3) A compulsory testing notice may also specify any other requirements that the specified person must comply with in relation to that person's undergoing of a specified test.

13. Non-compliance with compulsory testing notice

- (1) A specified person who fails to comply with a requirement under a compulsory testing notice commits an offence and is liable on conviction to a fine at level 4 and to imprisonment for 6 months. (*L.N. 243 of 2020; L.N. 43 of 2022*)
- (2) It is a defence for a person charged under subsection (1) to establish that—

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- (a) the person had lawful authority or reasonable excuse for the failure to comply with the requirement; or
 - (b) without limiting paragraph (a)—
 - (i) the person did not know, and could not with reasonable diligence have discovered, the requirement;
 - (ii) the person reasonably believed that the requirement was not imposed on him or her; or
 - (iii) the person could not comply with the requirement because of any physical or mental illness, impairment or disability.
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Part 4

Compulsory Testing Order

14. **Compulsory testing order for non-compliance with compulsory testing direction or compulsory testing notice**

- (1) This section applies if a prescribed officer has reason to believe that—
 - (a) a person has failed to undergo a specified test in compliance with the requirement under a compulsory testing direction; or
 - (b) a person—
 - (i) falls within a category or description of persons specified under section 10(1)(a); and
 - (ii) has failed to undergo a specified test in compliance with the requirement under the relevant compulsory testing notice.
- (2) During the specified period mentioned in subsection (3), the prescribed officer may, by written order served on the person, require the person to undergo a specified test in compliance with the requirement under the compulsory testing direction or compulsory testing notice (as the case may be) mentioned in subsection (1) (as modified by the order under section 15).
- (3) The specified period is—
 - (a) for a person mentioned in subsection (1)(a)—the 30-day period immediately after the deadline that is specified under section 7(1)(c) in the relevant compulsory testing direction; or

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- (b) for a person mentioned in subsection (1)(b)—a period specified under section 10(1)(c)(i) in relation to the category or description of persons mentioned in subsection (1)(b)(i).
- (3A) For preventing, protecting against, delaying or otherwise controlling the incidence or transmission of the specified disease, a compulsory testing order—
- (a) may specify any reasonable requirement that the person must comply with until the result of the test mentioned in subsection (2) (*test result*) is ascertained; and
- (b) without limiting paragraph (a), may require the person not to leave or enter a particular place without the permission of a prescribed officer until the test result is ascertained,
- whether or not such a requirement has been imposed on the person under section 4(4)(c) or 10(3)(d). (*L.N. 251 of 2020*)
- (4) A compulsory testing order may be served on a person personally or by sending it by post to, or leaving it at, the person's last known place of residence or work.
- (5) If a compulsory testing order (*pre-existing order*) has been served on a person in relation to a failure to undergo a specified test in compliance with the requirement under a compulsory testing direction or compulsory testing notice, no prescribed officer may serve another compulsory testing order on the person in relation to that failure unless the officer has reason to believe that the person has failed to comply with the requirement under a pre-existing order.

15. Requirements specified in compulsory testing order

- (1) A compulsory testing order served on a person must—

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- (a) for a person mentioned in section 14(1)(a)—specify a deadline in substitution of a deadline that is specified under section 7(1) in the relevant compulsory testing direction; or
 - (b) for a person mentioned in section 14(1)(b)—specify a deadline or date in substitution of a deadline or date that is specified under section 12(1) in the relevant compulsory testing notice.
- (2) A compulsory testing order may also specify any other requirements that the person must comply with in relation to that person's undergoing of a specified test.

16. Non-compliance with compulsory testing order

- (1) A person who fails to comply with a requirement under a compulsory testing order commits an offence and is liable on conviction to a fine at level 5 and to imprisonment for 6 months. (*L.N. 43 of 2022*)
- (2) It is a defence for a person charged under subsection (1) to establish that—
 - (a) the person had lawful authority or reasonable excuse for the failure to comply with the requirement; or
 - (b) without limiting paragraph (a)—
 - (i) the person did not know, and could not with reasonable diligence have discovered, the requirement; or
 - (ii) the person could not comply with the requirement because of any physical or mental illness, impairment or disability.

17. (*Repealed L.N. 251 of 2020*)

18. Power to demand certain information from persons believed to be persons on whom compulsory testing order may be served

(L.N. 251 of 2020)

- (1) If a prescribed officer has reason to believe that a compulsory testing order may be served on a person under section 14(2), the officer may, for ascertaining whether that is the case, require the person to provide any information relevant to that purpose. *(L.N. 251 of 2020)*
- (2) A person who fails to comply with a requirement made under subsection (1) commits an offence and is liable on conviction to a fine at level 3.
- (3) It is a defence for a person charged under subsection (2) to establish that—
 - (a) the person had reasonable excuse for the failure to comply with the requirement; or
 - (b) without limiting paragraph (a), the information required to be provided was not within the knowledge, in the possession or under the control of the person, and could not reasonably have been ascertained or obtained by the person.
- (4) A person who, in purported compliance with a requirement made under subsection (1), knowingly or recklessly provides 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.

19. Power to demand information for exercising power under section 14(2)

(L.N. 251 of 2020)

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- (1) A prescribed officer may, for exercising a power under section 14(2), require a person to provide any information if—
 - (a) the officer has reason to believe that the information—
 - (i) is within the knowledge, in the possession or under the control of the person; and
 - (ii) is relevant to—
 - (A) ascertaining whether a person whom the officer has reason to believe to be a specified person is actually a specified person; or
 - (B) the identification and tracing of a person on whom a compulsory testing order may be served under that section; and
 - (b) it is not reasonably practicable to exercise that power in respect of the person mentioned in paragraph (a)(ii)(A) or (B) if the information is not obtained.
- (2) *(Repealed L.N. 251 of 2020)*
- (3) A person who fails to comply with a requirement made under subsection (1) commits an offence and is liable on conviction to a fine at level 3.
- (4) It is a defence for a person charged under subsection (3) to establish that— *(L.N. 251 of 2020)*
 - (a) the person had reasonable excuse for the failure to comply with the requirement; or
 - (b) without limiting paragraph (a), the information required to be provided was not within the knowledge, in the possession or under the control of the person, and could not reasonably have been ascertained or obtained by the person.

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- (5) A person who, in purported compliance with a requirement made under subsection (1), knowingly or recklessly provides 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.
- (6) *(Repealed L.N. 251 of 2020)*

(L.N. 251 of 2020)

Part 4A

Subjecting Certain Premises to Restriction and Compulsory Testing for Persons on them

(Part 4A added L.N. 251 of 2020)

19A. Interpretation (Part 4A)

In this Part—

effective period (有效期) in relation to a restriction-testing declaration, means the period—

- (a) beginning at the time when the declaration takes effect under section 19B(5); and
- (b) ending at the time when the declaration is revoked, or ceases to have effect, under section 19F;

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;

restricted person (受限人士) means a person—

- (a) who, when a restriction-testing declaration takes effect in relation to any premises under section 19B(5), is on the premises; or
- (b) who enters the premises during the effective period of the declaration,

but does not include a prescribed officer or a person specified under section 19M(3);

restricted premises (受限處所), subject to section 19G(4), means any premises in relation to which a restriction-testing declaration is in effect.

19B. Secretary may make restriction-testing declaration and make appointment

- (1) If the Secretary, having regard to the extent and pattern (whether general or specific) of the spread of the specified disease in Hong Kong and the need to alleviate the effects of that disease on the carrying out of social or economic activities in Hong Kong, is satisfied that the specified conditions are met under subsection (2) in relation to any premises, the Secretary may make, in relation to the premises, a declaration for the purposes of this Part.
- (2) For the purposes of subsection (1), the specified conditions are met in relation to any premises if—
 - (a) either or both of the following apply—
 - (i) a considerable number of persons who have recently contracted the specified disease have recently been present on the premises;
 - (ii) a person who has recently contracted that disease and who has recently been present on the premises is likely to have been in close proximity to a considerable number of other persons on the premises;
 - (b) accordingly, persons who are present on the premises—
 - (i) are being, or are likely to be, exposed to a significant risk of contracting that disease; or
 - (ii) have been, or are likely to have been, exposed to such a risk; and
 - (c) ascertaining, as soon and as extensively as practicable, whether the persons mentioned in paragraph (b) have contracted that disease is necessary for preventing,

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protecting against, delaying or otherwise controlling the incidence or transmission of that disease.

- (3) A restriction-testing declaration made in relation to any premises must identify the premises, using maps or plans if necessary.
- (4) If a restriction-testing declaration is made in relation to any premises, the Secretary must cause a copy of the declaration to be displayed in a prominent position at or near every entrance to the premises.
- (5) A restriction-testing declaration takes effect immediately after a copy of the declaration is displayed under subsection (4).
- (6) The Secretary may in writing appoint any public officer for performing a function under this Part concerning a restriction-testing declaration.

19C. Exit restriction imposed by restriction-testing declaration

- (1) No restricted person may leave any restricted premises.
- (2) Subsection (1) does not apply to a restricted person if—
 - (a) the person has lawful authority or reasonable excuse for leaving the restricted premises; or
 - (b) without limiting paragraph (a)—
 - (i) the person has to receive urgent medical treatment (whether or not for the specified disease); or
 - (ii) the person's continued stay on the premises would cause unreasonable hardship to the person or any other person,

and the restricted person has met the conditions specified in subsection (3).

- (3) The conditions specified for subsection (2) are—

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- (a) the person has complied with a requirement made of the person under section 19E(1);
 - (b) the person has provided to a prescribed officer the personal particulars, address and means of contact of the person; and
 - (c) the person has complied with any direction that a prescribed officer may reasonably consider necessary to make for preventing, protecting against, delaying or otherwise controlling the transmission of the specified disease within or from the restricted premises.
- (4) Subsection (1) does not apply to a restricted person who is travelling from the restricted premises to a place designated under section 19G(2) in relation to the premises in compliance with a direction made under that section.
- (5) A restricted person who contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 4 and to imprisonment for 6 months.
- (6) In criminal proceedings for an offence under subsection (5)—
- (a) the burden of establishing the matter mentioned in subsection (2)(a) or (b)(i) or (ii) lies on the restricted person; and
 - (b) the person is taken to have established the matter mentioned in paragraph (a) if—
 - (i) there is sufficient evidence to raise an issue with respect to that matter; and
 - (ii) the contrary is not proved by the prosecution beyond reasonable doubt.

19D. Entry restriction imposed by restriction-testing declaration

- (1) No person other than a prescribed officer or a person specified

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under section 19M(3) may enter any restricted premises.

- (2) Subsection (1) does not apply to a person if—
 - (a) the person is a resident of the restricted premises;
 - (b) the person has lawful authority or reasonable excuse for entering the premises; or
 - (c) without limiting paragraph (b), the person's not entering the premises would cause unreasonable hardship to the person or any other person,and the person has met the conditions specified in subsection (3).
- (3) The conditions specified for subsection (2) are—
 - (a) the person has acknowledged in writing the person's awareness that—
 - (i) the person becomes a restricted person on entering the premises; and
 - (ii) this Part applies to the person accordingly; and
 - (b) the person has complied with any direction that a prescribed officer may reasonably consider necessary to make for preventing, protecting against, delaying or otherwise controlling the transmission of the specified disease within or from the premises.
- (4) For the purposes of subsection (2), a person is exempt from meeting the condition specified in subsection (3)(a) if the prescribed officer reasonably considers that because of the person's age or physical or mental condition, the person is incapable of making the acknowledgement mentioned in subsection (3)(a) or appreciating its meaning.
- (5) Subsection (1) does not apply to a restricted person's entry into a place designated under section 19G(2) in compliance with a direction made under that section.

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- (6) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 4 and to imprisonment for 6 months.
- (7) In criminal proceedings for an offence under subsection (6)—
 - (a) the burden of establishing the matter mentioned in subsection (2)(a), (b) or (c) lies on the person; and
 - (b) the person is taken to have established the matter mentioned in paragraph (a) if—
 - (i) there is sufficient evidence to raise an issue with respect to that matter; and
 - (ii) the contrary is not proved by the prosecution beyond reasonable doubt.

19E. Power to require test

- (1) During the effective period of a restriction-testing declaration, a prescribed officer may require any restricted person found on the restricted premises to undergo a specified test in accordance with the instructions given by a prescribed officer.
- (2) A restricted person who fails to comply with a requirement made under subsection (1) commits an offence unless—
 - (a) the person has lawful authority or reasonable excuse for the failure to comply with the requirement; or
 - (b) without limiting paragraph (a), the person cannot comply with the requirement because of any physical or mental illness, impairment or disability.
- (3) A person who is convicted of an offence under subsection (2) is liable to a fine at level 5 and to imprisonment for 6 months.
(L.N. 43 of 2022)
- (4) In criminal proceedings for an offence under subsection (2)—

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- (a) the burden of establishing the matter mentioned in subsection (2)(a) or (b) lies on the restricted person; and
- (b) the person is taken to have established the matter mentioned in paragraph (a) if—
 - (i) there is sufficient evidence to raise an issue with respect to that matter; and
 - (ii) the contrary is not proved by the prosecution beyond reasonable doubt.

19F. Revocation and expiry of restriction-testing declaration

- (1) The Secretary may revoke a restriction-testing declaration if—
 - (a) the Secretary is satisfied that the results of all the specified tests conducted on those restricted persons who have been found, and who are remaining, on the restricted premises have been ascertained; or
 - (b) the Secretary, having regard to all the circumstances, is satisfied that revoking the declaration serves the public interest of Hong Kong.
- (2) A revocation under subsection (1) must be signified and published in a way the Secretary considers appropriate.
- (3) A restriction-testing declaration that is not revoked under subsection (1) ceases to have effect on the expiry of 7 days after the date on which the declaration takes effect under section 19B(5).

19G. Secretary may direct restricted persons to be transferred to designated place

- (1) The Secretary may exercise the power under subsection (2) if the Secretary is satisfied that exercising the power is necessary for preventing, protecting against, delaying or

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otherwise controlling the transmission of the specified disease within or from any restricted premises.

- (2) The Secretary may at any time during the effective period of the restriction-testing declaration direct that every restricted person found on the restricted premises, or every such person who falls within a category or description specified by the Secretary, is to, as soon as reasonably practicable after the direction is made, be transferred to a place outside the premises designated by the Secretary (*designated place*).
- (3) A direction made under subsection (2) must be signified and published in a way the Secretary considers appropriate.
- (4) If a designated place is designated in relation to any restricted premises, the place is to be regarded, for the purposes of this Regulation (except section 19J), as a part of the premises.
- (5) A direction made under subsection (2) does not apply to a restricted person if—
 - (a) the person has lawful authority or reasonable excuse for staying on the restricted premises from which the person is required to be transferred under the direction; or
 - (b) without limiting paragraph (a), the person's not staying on the premises would cause unreasonable hardship to the person or any other person.
- (6) A restricted person who fails to comply with a direction made under subsection (2) commits an offence and is liable on conviction to a fine at level 4 and to imprisonment for 6 months.
- (7) In criminal proceedings for an offence under subsection (6)—
 - (a) the burden of establishing the matter mentioned in subsection (5)(a) or (b) lies on the restricted person; and

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- (b) the person is taken to have established the matter mentioned in paragraph (a) if—
 - (i) there is sufficient evidence to raise an issue with respect to that matter; and
 - (ii) the contrary is not proved by the prosecution beyond reasonable doubt.

19H. Power to regulate movement in restricted premises etc.

- (1) For the purpose of reducing contact among restricted persons during the effective period of a restriction-testing declaration, a prescribed officer may require a restricted person to stay in a particular area on the restricted premises unless permitted by a prescribed officer.
- (2) A prescribed officer may also impose any other requirement on a restricted person during the effective period if the officer reasonably considers it necessary and proportionate for preventing, protecting against, delaying or otherwise controlling the transmission of the specified disease within or from the restricted premises.
- (3) A requirement made under subsection (1) or (2) does not apply to a restricted person if—
 - (a) the person has lawful authority or reasonable excuse for not complying with the requirement; or
 - (b) without limiting paragraph (a), the person's complying with the requirement would cause unreasonable hardship to the person or any other person.
- (4) A restricted person who fails to comply with a requirement made under subsection (1) or (2) commits an offence and is liable on conviction to a fine at level 4 and to imprisonment for 6 months.

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- (5) In criminal proceedings for an offence under subsection (4)—
- (a) the burden of establishing the matter mentioned in subsection (3)(a) or (b) lies on the restricted person; and
 - (b) the person is taken to have established the matter mentioned in paragraph (a) if—
 - (i) there is sufficient evidence to raise an issue with respect to that matter; and
 - (ii) the contrary is not proved by the prosecution beyond reasonable doubt.

19I. Power to detain or remove persons

- (1) If a prescribed officer reasonably considers it necessary and proportionate to ensure compliance with this Part, the officer—
- (a) may detain a restricted person in a particular area of the restricted premises; or
 - (b) may remove a person.
- (2) A police officer may use reasonable force in exercising a power under subsection (1).

19J. Power to enter and inspect premises etc.

- (1) If a magistrate is satisfied by information on oath that there are reasonable grounds for suspecting that—
- (a) there is a person on any premises (*target premises*) that constitute or form part of any restricted premises; and
 - (b) the person has, by refusing or neglecting to enable access to the target premises by a prescribed officer who is performing a function under this Part, delayed or hindered the officer in contravention of section 21,

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the magistrate may issue a warrant in respect of the target premises.

- (2) The warrant may authorize a prescribed officer to—
 - (a) break into and forcibly enter the target premises and inspect and search the target premises; and
 - (b) require any person present on the target premises to provide the officer with any assistance that the officer reasonably considers necessary to enable the officer to perform a function under this Part.
- (3) However, a police officer of or above the rank of superintendent may do an act specified in subsection (2)(a) or (b) without warrant if the officer is satisfied that—
 - (a) there are reasonable grounds for suspecting that a person on any target premises has, by refusing or neglecting to enable access to the target premises by a prescribed officer who is performing a function under this Part, delayed or hindered the prescribed officer in contravention of section 21;
 - (b) it is necessary to do the act for ensuring compliance with that section; and
 - (c) either or both of the following apply—
 - (i) doing the act without delay is necessary for preventing, protecting against, delaying or otherwise controlling the transmission of the specified disease within or from the restricted premises;
 - (ii) it is not reasonably practicable to make an application for the warrant in the circumstances of the case.

19K. Power to demand information or assistance

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- (1) A prescribed officer may, for performing a function under this Part (including the ascertaining of whether or not a requirement is imposed by or under this Part on a particular person), require any person (*inquired person*) to provide any information if—
 - (a) the officer has reason to believe that the information is within the knowledge, in the possession or under the control of the inquired person; and
 - (b) it is not reasonably practicable to perform the function if the information is not obtained.
- (2) A prescribed officer may require a manager, owner or occupier of any restricted premises to provide the officer with any assistance that the officer reasonably considers necessary to enable the officer to perform a function under this Part.
- (3) A person who fails to comply with a requirement made under subsection (1) or (2) commits an offence and is liable on conviction to a fine at level 3.
- (4) It is a defence for a person charged under subsection (3) to establish that—
 - (a) for a failure to comply with a requirement made under subsection (1)—
 - (i) the person had reasonable excuse for the failure to comply with the requirement; or
 - (ii) without limiting subparagraph (i), the information required to be provided was not within the knowledge, in the possession or under the control of the person, and could not reasonably have been ascertained or obtained by the person; or

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- (b) for a failure to comply with a requirement made under subsection (2)—the person had reasonable excuse for the failure to comply with the requirement.
- (5) A person who, in purported compliance with a requirement made under subsection (1), knowingly or recklessly provides 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.

19L. Functions related to vulnerable persons

- (1) A prescribed officer may only exercise a power under this Part in relation to a vulnerable person if the officer reasonably considers that it is in the best interests of the person to do so.
- (2) A prescribed officer may require a responsible person for a vulnerable person to use the responsible person's best endeavours to ensure that the vulnerable person complies with a requirement imposed by or under this Part.
- (3) A person who fails to comply with a requirement made under subsection (2) commits an offence and is liable on conviction to a fine at level 4. (*L.N. 43 of 2022*)
- (4) It is a defence for a person charged under subsection (3) to establish that the person had reasonable excuse for the failure to comply with the requirement.
- (5) A prescribed officer may only exercise a power under section 19E in relation to a vulnerable person in the presence of—
 - (a) a responsible person for the vulnerable person; or
 - (b) if the vulnerable person is not accompanied by a responsible person for the vulnerable person—an adult (not being a prescribed officer or a person specified under section 19M(3)) whom the officer reasonably

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considers to be appropriate, having regard to any views of the vulnerable person.

- (6) If a prescribed officer may exercise a power under this Part in relation to a vulnerable person but the vulnerable person is not accompanied by a responsible person for the vulnerable person, the officer must, if the power is exercised—
 - (a) if reasonably practicable—contact a responsible person for the vulnerable person before the power is exercised; or
 - (b) if that is not reasonably practicable—take reasonable steps after the power is exercised to contact a responsible person for the vulnerable person and inform the responsible person of the exercise of the power.
- (7) *(Repealed L.N. 43 of 2022)*

19M. General provisions on performance of functions

- (1) A prescribed officer must, if so required, produce written proof of the officer's appointment before performing a function under this Part.
- (2) A prescribed officer must not perform a function under this Part in a way that is more restrictive or onerous than is necessary for preventing, protecting against, delaying or otherwise controlling the transmission of the specified disease within or from the restricted premises.
- (3) If a prescribed officer reasonably considers that a function under this Part may be performed by doing an act that does not involve the use of force, that act may be done by a person specified by the officer.

19N. Duty to ensure supply of basic necessities

During the effective period of a restriction-testing declaration (other

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than the first 12 hours of the period), the Government must ensure that every restricted person found on the restricted premises is provided with any basic necessities (including goods and services) that the Government reasonably considers appropriate.

Part 5

General Enforcement Powers

(L.N. 251 of 2020)

190. Power to demand information for suspected offences

- (1) If a prescribed officer has reason to believe that a person has committed an offence under this Regulation, the officer may, for issuing or serving a summons or other document in relation to the offence, require the person to—
 - (a) provide 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.
- (2) A person who fails to comply with a requirement made under subsection (1) commits an offence and is liable on conviction to a fine at level 3.
- (3) It is a defence for a person charged under subsection (2) to establish that the person had reasonable excuse for the failure to comply with the requirement.
- (4) A person who, in purported compliance with a requirement made under subsection (1), knowingly or recklessly provides 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.
- (5) 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. 251 of 2020)

20. Power to enter and search premises with warrant

- (1) If satisfied by information on oath that there are reasonable grounds for suspecting that there is on any premises any thing that is relevant to ascertaining whether this Regulation has been complied with, a magistrate may issue a search warrant in respect of the premises.
- (2) The search warrant may authorize a prescribed 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 relevant to ascertaining whether this Regulation has been complied with; 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.

21. Obstruction of prescribed officer or specified medical practitioner etc. prohibited

- (1) A person must not delay, obstruct, hinder or molest a prescribed officer, or a specified medical practitioner, who is performing a function under this Regulation.
- (2) A person must comply with a requirement made by a prescribed officer in the performance of a function under this Regulation.
- (3) A person who contravenes subsection (1) or (2) commits an offence and is liable on conviction to a fine at level 3.

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- (4) It is a defence for a person charged under subsection (3) to establish that the person had reasonable excuse for the contravention.
-

Part 6

Miscellaneous

22. Specified test not to be more intrusive or invasive than necessary

A power under section 4, 10, 14 or 19E must not be exercised to require a person to undergo any specified test that is more intrusive or invasive than is necessary for ascertaining whether the person has contracted the specified disease.

(L.N. 251 of 2020)

22A. Responsible persons to ensure compliance

- (1) This section applies in relation to a requirement imposed on a vulnerable person under—
 - (a) a compulsory testing direction;
 - (b) a compulsory testing notice; or
 - (c) a compulsory testing order.
- (2) A responsible person for the vulnerable person must use the responsible person's best endeavours to ensure that the vulnerable person complies with the requirement.
- (3) A person who contravenes subsection (2) commits an offence and is liable on conviction to a fine at level 4.
- (4) It is a defence for a person charged under subsection (3) to establish that—
 - (a) the person had lawful authority or reasonable excuse for the failure to use the person's best endeavours to ensure compliance with the requirement; or
 - (b) without limiting paragraph (a)—

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- (i) the person did not know, and could not with reasonable diligence have discovered, the requirement; or
- (ii) the person reasonably believed that—
 - (A) the requirement was not imposed on the vulnerable person;
 - (B) the vulnerable person had lawful authority or reasonable excuse for the failure to comply with the requirement; or
 - (C) the vulnerable person could not comply with the requirement because of any physical or mental illness, impairment or disability.

(L.N. 43 of 2022)

23. Deadline or date postponed for inclement weather

If a deadline or date specified under section 7(1), 12(1) or 15(1) falls on a gale warning day, or a black rainstorm warning day, as defined by section 71(2) of the Interpretation and General Clauses Ordinance (Cap. 1), the deadline or date is taken to be postponed to the next following day, not being a gale warning day or black rainstorm warning day.

24. Fixed penalty in discharge of liability under section 8(1), 13(1) or 22A(3)

(L.N. 43 of 2022)

- (1) If a person commits an offence under section 8(1), 13(1) or 22A(3), the person may, in accordance with the Schedule, discharge liability for the offence by paying a fixed penalty of \$10,000. *(L.N. 243 of 2020; L.N. 15 of 2022; L.N. 43 of 2022)*

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

Editorial Note:

*Notice	Person specified as Authority
G.N. (E.) 241 of 2020	The Director of Health, the Commissioner of Police, the Director of Social Welfare and the Commissioner for Transport
G.N. (E.) 13 of 2021	The Director of Home Affairs and the Director of Housing
G.N. (E.) 323 of 2021	The Commissioner for Labour

25. Defence

A person is taken to have established a matter that needs to be established for a defence under section 8(2), 13(2), 16(2), 18(3), 19(4), 19K(4), 19L(4), 19O(3), 21(4) or 22A(4) if— (*L.N. 251 of 2020; L.N. 43 of 2022*)

- (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.

26. Director may specify form of documents

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

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Part 6

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27. Appointment of public officer or member of Auxiliary Medical Service

Without limiting section 3(1)(c), 10(1)(c)(ii) or 19B(6), an appointment of any public officer or member of the Auxiliary Medical Service under that section may be made by reference to a rank or an office.

(L.N. 251 of 2020)

28. Expiry

This Regulation expires at midnight on 31 March 2023.

(L.N. 18 of 2021; L.N. 146 of 2021; L.N. 43 of 2022; L.N. 175 of 2022)

Schedule

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Fixed Penalty

Part 1

Interpretation

1. Interpretation

In this Schedule—

Authority (當局) means a person specified under section 24(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 26.

Part 2

Penalty Notice and Demand Notice

2. Prescribed officer may give penalty notice

- (1) This section applies if a prescribed officer has reason to believe that a person has committed an offence under section 8(1), 13(1) or 22A(3). (*L.N. 43 of 2022*)

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- (2) The prescribed 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 prescribed 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 8(1), 13(1) or 22A(3). (*L.N. 43 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.

- (1) This section applies if—
 - (a) a person—
 - (i) has been given a penalty notice in respect of an offence under section 8(1), 13(1) or 22A(3); and (*L.N. 43 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—

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- (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 8(1), 13(1) or 22A(3). (*L.N. 43 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 8(1), 13(1) or 22A(3)— (*L.N. 43 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.
- (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—

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- (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.

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- (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

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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 8(1), 13(1) or 22A(3); or
 - (b) a person has been given leave under section 11(2) of this Schedule to dispute liability for an offence under section 8(1), 13(1) or 22A(3). (*L.N. 43 of 2022*)

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- (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.