

Prevention and Control of Disease (Regulation of Cross-boundary Conveyances and Travellers) Regulation and the Prevention and Control of Disease (Wearing of Mask) (Public Transport) Regulation gazetted

In view of the development and severity of the COVID-19 epidemic situation in Hong Kong, the Government yesterday (July 13) gazetted and enacted the Prevention and Control of Disease (Regulation of Cross-boundary Conveyances and Travellers) Regulation (Cap. 599H) and the Prevention and Control of Disease (Wearing of Mask) (Public Transport) Regulation (Cap. 599I). Cap. 599H and Cap. 599I will come into effect at 0.00am on July 15, 2020.

The epidemic situation of COVID-19 in Hong Kong has undergone drastic changes recently. Among the 52 confirmed cases announced on July 13, 2020, 41 were local cases. New cases recorded during the period from July 7 to July 13, 2020 include 181 cases without travel history during the incubation period. The recent emergence of local cases of unknown infection source indicates the existence of sustained silent transmission in the community. The latest public health risk assessment shows that the risk of a large-scale outbreak is extremely high.

In addition to local cases, the Government is also very concerned about the considerable number of imported cases. New cases recorded during the period from July 7 to July 13, 2020 include 55 imported cases. The sources of these cases are mainly arrivals from places with high risk of COVID-19, such as Pakistan, India, Bangladesh, Nepal and South Africa, as well as foreign domestic helpers from the Philippines and Indonesia.

A spokesman for the Food and Health Bureau said, "As the epidemic situation evolves and develops, taking into account the limited capacities of our quarantine and isolation facilities, the Government must implement measures to prevent imported and local cases. To this end, having regard to the latest public health risk assessment, we need to impose conditions on travellers coming to Hong Kong on cross-boundary conveyances to reduce the health risk they may bring, as well as mandate the wearing of masks by any person on transport carriers during a specified period to prevent the spread of the disease through transport carriers."

Prevention and Control of Disease (Regulation of Cross-boundary Conveyances and Travellers) Regulation

Cap. 599H introduces a mechanism to empower the Secretary for Food and Health (the Secretary) to impose conditions related to the prevention and control of the specified disease or protection of public health, on cross-boundary conveyances arriving at Hong Kong from specified places and relevant travellers coming to Hong Kong on the conveyances. The mechanism empowers the Government to flexibly impose various conditions on travellers, either based on their originating place (e.g. specific high-risk places), or solely having regard to the office they assume (e.g. air crew or sea crew), including requiring inbound travellers from cross-boundary conveyances to obtain a negative result from a COVID-19 test conducted by a recognised laboratory before arriving at Hong Kong. The Secretary will issue directions on the above matters in due course.

If any conditions specified by the Secretary is not met in relation to any traveller on a conveyance, a health officer or authorised officer acting on the advice of a health officer may prohibit the aircraft from landing in Hong Kong or prohibit the vessel from entering or staying in the waters of Hong Kong.

To ensure the operator of a conveyance comply with the relevant requirements, the health officer or authorised officer acting on the advice of a health officer may require the operator to provide information, including information concerning the meeting of the specified conditions for the relevant traveller(s) on the said conveyance, the travel record of the conveyance or the health condition of the persons on the conveyance. As for travellers coming to Hong Kong, the health officer or authorised officer acting on the advice of a health officer may require them to provide information concerning their health condition, travel history and the meeting of the specified conditions, including their COVID-19 test results.

If any conditions specified by the Secretary is not met in relation to any relevant traveller on the conveyance, each of the operators of the conveyance commits an offence, and is liable on conviction to the maximum penalty of a fine at level 5 (\$50,000) and imprisonment for six months. If an operator fails to comply with a requirement to provide information, or knowingly or recklessly provides any information that is false or misleading in a material particular, he or she is liable on conviction to the maximum penalty of a fine at level 5 (\$50,000) and imprisonment for six months.

As for travellers, if a traveller coming to Hong Kong fails to comply with a requirement to provide information, or knowingly or recklessly provides any information that is false or misleading in a material particular, he or she is liable on conviction to the maximum penalty of a fine at level 3 (\$10,000) and imprisonment for six months.

Prevention and Control of Disease (Wearing of Mask) (Public Transport) Regulation

Cap. 599I empowers the Secretary, for preventing, protecting against, delaying or otherwise controlling the incidence or transmission of the specified disease, to, by notice published in the Gazette, specify a

period. During the specified period, a person must wear a mask at all times when the person is boarding or on board a public transport carrier (see Annex), or is entering or present in an MTR paid area.

The relevant provision does not apply to a person who is under the age of two, and a person who has lawful authority or reasonable excuse for not wearing a mask. Reasonable excuses listed under Cap. 599I include:

- (a) the person cannot put on, wear or remove a mask:
 - (i) because of any physical or mental illness, impairment or disability; or
 - (ii) without severe distress;
- (b) the person is accompanying, or providing assistance to, another person who relies on lip reading to communicate with the person;
- (c) it is reasonably necessary for the person not to wear a mask in order to avoid any physical harm to the person or others;
- (d) it is reasonably necessary for the person to board or be on board a public transport carrier, or enter or be present in an MTR paid area, in order to avoid any physical harm to the person but the person does not have a mask;
- (e) the person is not wearing a mask in order to do any of the following acts (only if the act is lawful and reasonably necessary in the circumstances):
 - (i) eat or drink;
 - (ii) take medication;
 - (iii) maintain personal hygiene; or
- (f) the person is required by a public officer (who is performing a function of the officer) to remove a mask the person is otherwise wearing.

In addition, if a person is boarding or on board a public transport carrier that is not in service, or is entering or present in an MTR paid area that is not open to the public, the relevant provision does not apply either.

The Secretary has published in the Gazette a notice, specifying for the period of 14 days from 0.00am of July 15 to July 28, 2020, a person must wear a mask at all times when the person is boarding or on board a public transport carrier, or is entering or present in an MTR paid area.

If a person does not wear a mask in accordance with the requirement, an authorised person may deny that person from boarding a public transport carrier or entering the area concerned, as well as require that person to wear a mask and disembark from the carrier or leave the said area. A person who contravenes the relevant provision commits an offence and the maximum penalty is a fine at level 2 (\$5,000).

Cap. 599H and Cap. 599I are made under the Prevention and Control of Disease Ordinance (Cap. 599). Section 8 of the Ordinance empowers the Chief Executive in Council to make public health emergency regulation for the purposes of preventing, combating or alleviating the effects of a public health emergency and protecting public health.