

Prevention and Control of Disease (Wearing of Mask) Regulation

(Cap. 599 sub. leg. I)

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Prevention and Control of Disease (Wearing of Mask) Regulation

(L.N. 149 of 2020)

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

[15 July 2020]

1. Commencement

This Regulation comes into operation on 15 July 2020.

2. Interpretation

(1) In this Regulation—

authorized public officer (獲授權公職人員) means a public officer appointed under section 6D(1); (L.N. 149 of 2020)

Cap. 599F direction (《第599F章》指示) means a direction issued under section 6 or 8 of the Prevention and Control of Disease (Requirements and Directions) (Business and Premises) Regulation (Cap. 599 sub. leg. F); (L.N. 24 of 2022)

Cap. 599F premises (《第599F章》處所) means any premises in relation to which a Cap. 599F direction is in force; (L.N. 24 of 2022)

fixed penalty (定額罰款) means the fixed penalty under section 6A(1); (L.N. 149 of 2020)

mask (口罩) includes any covering designed or made to be worn over the nose and mouth to provide the wearer protection against infections or air pollution;

MTR paid area (港鐵已付車費區域) means a paid area as defined by by-law 2 of the Mass Transit Railway By-laws (Cap. 556 sub. leg. B);

public place (公眾地方)—

- (a) means any place to which for the time being the public or a section of the public may or are permitted to have access, whether on payment or otherwise; but
- (b) does not include—
 - (i) a public transport carrier;
 - (ii) an MTR paid area; or
 - (iii) any Cap. 599F premises; (*L.N. 149 of 2020; L.N. 24 of 2022*)

public transport carrier (公共交通工具) means a conveyance mentioned in Schedule 1; (*L.N. 149 of 2020*)

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 period (指明期間) means— (*L.N. 149 of 2020*)

- (a) in section 4(1)—a period specified under section 3(1)(b); or (*L.N. 50 of 2022 and L.N. 147 of 2022*)
- (b) in section 5A(1)—a period specified under section 3(1)(c); (*L.N. 149 of 2020; L.N. 50 of 2022 and L.N. 147 of 2022*)
- (c) (*Repealed L.N. 50 of 2022 and L.N. 147 of 2022*)

specified public place (指明公眾地方) means a public place, or a public place that is of a category or description, specified under section 3(1)(a). (*L.N. 149 of 2020*)

(2) For the purposes of this Regulation—

- (a) a reference to a person wearing a mask is a reference to the person wearing a mask over and covering the person's nose and mouth, with the mask touching the person's nose, chin and cheeks; and
- (b) a reference to a person not wearing a mask is to be construed accordingly.

3. Specification by Secretary for Health

(L.N. 149 of 2020; L.N. 144 of 2022)

- (1) For preventing, protecting against, delaying or otherwise controlling the incidence or transmission of the specified disease, the Secretary for Health may, by notice published in the Gazette*— *(L.N. 149 of 2020; L.N. 144 of 2022)*
 - (a) specify any or all public places, or a category or description of public places, for the purposes of this Regulation;
 - (b) specify a period for the purposes of section 4(1); and *(L.N. 50 of 2022 and L.N. 147 of 2022)*
 - (c) specify a period for the purposes of section 5A(1). *(L.N. 50 of 2022 and L.N. 147 of 2022)*
 - (d) *(Repealed L.N. 50 of 2022 and L.N. 147 of 2022)*
- (2) Any period specified under subsection (1)(b) or (c) must not exceed 14 days.
- (3) Any notice published under subsection (1) is not subsidiary legislation.

(L.N. 149 of 2020)

Editorial Note:

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

4. Requirement to wear mask in public transport carrier and

MTR paid area during specified period

- (1) During a specified period, a person must wear a mask at all times when the person is—
 - (a) boarding or on board a public transport carrier; or
 - (b) entering or present in an MTR paid area.
- (2) However, subsection (1) does not apply to—
 - (a) a person who is under the age of 2;
 - (b) a person who has lawful authority or reasonable excuse for not wearing a mask; and
 - (c) a person who is—
 - (i) boarding or on board a public transport carrier that is not in service; or
 - (ii) entering or present in an MTR paid area that is not open to the public.
- (3) Without limiting the scope of the reasonable excuse referred to in subsection (2)(b), a person has a reasonable excuse for not wearing a mask if—
 - (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) *(Repealed L.N. 24 of 2022)*
 - (ii) take medication;
 - (iii) maintain personal hygiene; *(L.N. 149 of 2020)*
 - (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; or *(L.N. 149 of 2020)*
 - (g) it is reasonably necessary for the person not to wear a mask for such verification of the person's identity as is reasonably necessary for business purposes. *(L.N. 149 of 2020)*

5. Powers exercisable if mask not worn in public transport carrier and MTR paid area

(L.N. 149 of 2020)

- (1) If an authorized person reasonably considers that another person (*that person*) is, in contravention of section 4(1), not wearing a mask, the authorized person may—
 - (a) if that person is boarding a public transport carrier or entering an MTR paid area—deny boarding to the carrier, or entry to the area, to that person; or
 - (b) if that person is on board a public transport carrier or present in an MTR paid area—
 - (i) require that person to wear a mask; and

- (ii) if that person fails to comply with the requirement made under subparagraph (i)—require that person to disembark from the carrier or leave the area.
- (2) If a person fails to comply with a requirement made under subsection (1)(b)(ii) by a police officer, the police officer may—
 - (a) remove the person from the public transport carrier or MTR paid area; and
 - (b) use reasonable force in exercising the power under paragraph (a).
- (3) An authorized person may exercise a power under subsection (1)(b) or (2) only if the authorized person reasonably considers it necessary and proportionate to ensure compliance with section 4(1).
- (4) A person is not entitled to a refund of, or to deny the liability to pay, any transportation fee only because the person is, under subsection (1)(b) or (2)—
 - (a) required to disembark, or removed, from a public transport carrier; or
 - (b) required to leave, or removed, from an MTR paid area.
- (5) The exercise of a power under subsection (1) by a taxi driver in good faith does not by itself constitute a contravention of regulation 37(a), (b) or (c) of the Road Traffic (Public Service Vehicles) Regulations (Cap. 374 sub. leg. D).
- (6) In this section—

authorized person (獲授權人士)—

 - (a) in relation to a public transport carrier, means—
 - (i) a police officer;
 - (ii) the driver, conductor, inspector, ticket collector, manager or owner of the carrier; or

- (iii) a person authorized by the manager or owner of the carrier for the purposes of this section; and
- (b) in relation to an MTR paid area, means—
 - (i) a police officer;
 - (ii) the MTR Corporation Limited; or
 - (iii) a person authorized by the Corporation for the purposes of this section;

manager (管理人), in relation to a public transport carrier, means a person who is responsible for the management or is in charge or control of the carrier;

taxi driver (的士司機) means the driver of a taxi within the meaning of the Road Traffic Ordinance (Cap. 374);

transportation fee (交通費) means—

- (a) in the case of subsection (4)(a)—any money paid or charged for the carriage of the person by the public transport carrier; and
- (b) in the case of subsection (4)(b)—any money charged by the MTR Corporation Limited when the person leaves the MTR paid area (whether or not for the carriage of the person).

5A. Requirement to wear mask in specified public place and Cap. 599F premises during specified period

(L.N. 24 of 2022)

- (1) During a specified period, a person must wear a mask at all times when the person is entering or present in any specified public place or Cap. 599F premises.
- (2) However, subsection (1) does not apply to—
 - (a) a person who is under the age of 2;

- (b) a person who has lawful authority or reasonable excuse for not wearing a mask; and
 - (c) a person participating in proceedings in any court, statutory tribunal or statutory board who is directed or permitted by the court, tribunal or board not to wear a mask.
- (3) Without limiting the scope of the reasonable excuse referred to in subsection (2)(b), a person has a reasonable excuse for not wearing a mask if—
- (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 enter or be present in the specified public place or Cap. 599F premises 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 in the circumstances)—
 - (i) eat or drink;
 - (ii) take medication;
 - (iii) maintain personal hygiene;

- (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;
 - (g) it is reasonably necessary for the person not to wear a mask for such verification of the person's identity as is reasonably necessary for business purposes;
 - (h) the person—
 - (i) is entering or present on any Cap. 599F premises; and
 - (ii) is not wearing a mask in circumstances permitted under the Cap. 599F direction;
 - (i) the person is carrying out, in the course of employment, an activity that reasonably requires that no mask may be worn, or that it must be removed in order that other equipment may be worn or used, to carry out that activity; (*L.N. 160 of 2020; L.N. 50 of 2022*)
 - (j) the person is undergoing a procedure that reasonably requires that no mask may be worn during its administration, such as dental treatment or a personal appearance service (except hairdressing) concerning any part of the face; or (*L.N. 160 of 2020; L.N. 50 of 2022*)
 - (k) (*Repealed L.N. 24 of 2022*)
 - (l) the person is engaged in any physical activity (including exercise) that may reasonably be regarded as strenuous for him or her, in a place that is not indoor. (*L.N. 50 of 2022*)
- (3A) Subsection (3)(l) does not apply if the person is required under a Cap. 599F direction to wear a mask in the place. (*L.N. 50 of 2022 and L.N. 147 of 2022*)
- (4) If a person is entering or present on any Cap. 599F premises, and in breach of the Cap. 599F direction the person does not

wear a mask in order to eat or drink on the premises, then despite subsection (3)(e)(i), eating or drinking is not regarded as a reasonable excuse for the purposes of subsection (2)(b).

(5) *(Repealed L.N. 24 of 2022)*

(6) In this section—

indoor (室内) 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. 50 of 2022)*

(L.N. 149 of 2020; L.N. 24 of 2022)

5B. Powers exercisable if mask not worn in specified public place and Cap. 599F premises

(L.N. 24 of 2022)

- (1) If an authorized person reasonably considers that another person (**that person**) is, in contravention of section 5A(1), not wearing a mask, the authorized person may—
 - (a) if that person is entering any specified public place or Cap. 599F premises or a part of such place or premises—deny entry to the place or premises or part to that person; or
 - (b) if that person is present in any specified public place or Cap. 599F premises or a part of such place or premises— *(L.N. 24 of 2022)*

- (i) require that person to wear a mask; and
 - (ii) if that person fails to comply with the requirement made under subparagraph (i)—require that person to leave the place or premises or part. (*L.N. 24 of 2022*)
- (2) An authorized person may exercise a power under subsection (1)(b) only if the authorized person reasonably considers it necessary and proportionate to ensure compliance with section 5A(1).
- (3) A person is not entitled to a refund of, or to deny the liability to pay, any money paid or charged for entry to any specified public place or Cap. 599F premises, or a part of such place or premises, only because the person is, under subsection (1)(b), required to leave the place or premises or part. (*L.N. 24 of 2022*)
- (4) In this section—

authorized person (獲授權人士), in relation to any specified public place or Cap. 599F premises or a part of such place or premises, means— (*L.N. 24 of 2022*)

- (a) a police officer;
- (b) an authorized public officer;
- (c) the manager or owner of the place or premises or part; or (*L.N. 24 of 2022*)
- (d) a person authorized by that manager or owner;

manager (管理人), in relation to any specified public place or Cap. 599F premises or a part of such place or premises, means a person who is responsible for the management or is in charge or control of the place or premises or part. (*L.N. 24 of 2022*)

(*L.N. 149 of 2020*)

6. Offences

- (1) A person who contravenes section 4(1) or 5A(1) commits an offence and is liable on conviction to a fine at level 3.
- (2) A person who, without reasonable excuse, fails to comply with a requirement made under section 5(1)(b)(ii) or 5B(1)(b)(ii) commits an offence and is liable on conviction to a fine at level 3.
- (3) In criminal proceedings for an offence under subsection (1) or (2)—
 - (a) the burden of establishing that a person has lawful authority or reasonable excuse referred to in section 4(2)(b) or 5A(2)(b) or in subsection (2) lies on the person; and
 - (b) the person is taken to have established the lawful authority or reasonable excuse if—
 - (i) there is sufficient evidence to raise an issue with respect to the lawful authority or reasonable excuse; and
 - (ii) the contrary is not proved by the prosecution beyond reasonable doubt. (*L.N. 149 of 2020*)

(L.N. 149 of 2020; L.N. 242 of 2020)

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

- (1) If a person commits an offence under section 6(1), the person may, in accordance with Schedule 2, discharge liability for the offence by paying a fixed penalty of \$5,000. (*L.N. 242 of 2020*)
- (2) Schedule 2 provides for matters relating to the fixed penalty.

(L.N. 149 of 2020)

6B. Power to demand personal details and inspect proof of identity

- (1) This section applies if an authorized public officer has reason to believe that a person is committing or has committed an offence under section 6.
- (2) The authorized public officer may, for issuing or serving a summons or other document in relation to the offence, require the person to—
 - (a) supply the person's name, date of birth, address and contact telephone number (if any); and
 - (b) produce for inspection the person's proof of identity.
- (3) A person who, without reasonable excuse, fails to comply with a requirement made under subsection (2) commits an offence and is liable on conviction to a fine at level 3.
- (4) A person who, in purported compliance with a requirement made under subsection (2), supplies any information that the person knows to be false or misleading 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 same meaning as in section 17B of the Immigration Ordinance (Cap. 115).

(L.N. 149 of 2020)

6C. Obstruction of authorized public officer etc. prohibited

- (1) A person must not delay, obstruct, hinder or molest an authorized public officer who is performing a function under this Regulation.
- (2) A person must comply with a requirement made by an authorized public 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.

(L.N. 149 of 2020)

6D. Authorized public officers

- (1) The Director may appoint any public officer as an authorized public officer for the purposes of this Regulation.
- (2) No personal liability is incurred by an authorized public officer or a person acting under the officer's direction in respect of any thing done or omitted to be done by the officer or person in good faith in the performance or purported performance of a function under this Regulation.

(L.N. 149 of 2020)

6E. Notices and certificates

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

(L.N. 149 of 2020)

7. Expiry

This Regulation expires at midnight on 31 March 2023.

(L.N. 203 of 2020; L.N. 250 of 2020; L.N. 30 of 2021; L.N. 145 of 2021; L.N. 42 of 2022; L.N. 174 of 2022)

Schedule 1

(L.N. 149 of 2020)

[s. 2]

Public Transport Carriers

1. A public bus operated under a franchise granted under the Public Bus Services Ordinance (Cap. 230)
2. A public bus operated under a passenger service licence for the purposes of the following service under the Road Traffic Ordinance (Cap. 374)—
 - (a) a tour service;
 - (b) an international passenger service;
 - (c) a hotel service;
 - (d) a student service;
 - (e) an employees' service;
 - (f) a residents' service;
 - (g) a multiple transport service; or
 - (h) any other service approved by the Commissioner for Transport
3. A public light bus within the meaning of the Road Traffic Ordinance (Cap. 374)
4. A school private light bus within the meaning of the Road Traffic Ordinance (Cap. 374)

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5. A private bus, or a private light bus, within the meaning of the Road Traffic Ordinance (Cap. 374) operated by The Hong Kong Society for Rehabilitation, or by Kwoon Chung Inclusive and Accessible Transport Services Company Limited, for operating the Rehabus
6. A taxi within the meaning of the Road Traffic Ordinance (Cap. 374)
7. A train operated on the Mass Transit Railway under the Mass Transit Railway Ordinance (Cap. 556)
8. A train operated on the KCRC Railway within the meaning of section 2(1) of the Mass Transit Railway Ordinance (Cap. 556)
9. A light rail vehicle operated on the North-west Railway within the meaning of section 2(1) of the Mass Transit Railway Ordinance (Cap. 556)
10. A car used on the tramway under the Tramway Ordinance (Cap. 107)
11. A tramcar used on the tramway under the Peak Tramway Ordinance (Cap. 265)
12. A cable car within the meaning of the Tung Chung Cable Car Bylaw (Cap. 577 sub. leg. A)

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13. Those parts of a ferry vessel operated under a franchise or a licence granted under the Ferry Services Ordinance (Cap. 104) opened, kept or used for or in connection with the carriage of passengers or to which the passengers have or are permitted to have access
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Schedule 2

[s. 6A]

Fixed Penalty

Part 1

Interpretation

1. Interpretation

In this Schedule—

Authority (當局) means—

- (a) the Director;
- (b) the Commissioner of Police;
- (c) the Director of Agriculture, Fisheries and Conservation;
- (d) the Director of Food and Environmental Hygiene;
- (e) the Director of Home Affairs;
- (f) the Director of Housing; (*L.N. 30 of 2021*)
- (g) the Director of Leisure and Cultural Services; or (*L.N. 30 of 2021*)
- (h) the Commissioner for Labour; (*L.N. 30 of 2021*)

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

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

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

specified form (指明格式) means a form specified under section 6E.

Part 2

Penalty Notice and Demand Notice

2. Authorized public officer may give penalty notice

- (1) This section applies if an authorized public officer has reason to believe that a person is committing or has committed an offence under section 6(1).
- (2) The authorized public 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 public officer personally to the person.

3. No prosecution or conviction if compliance with penalty notice

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

6. Withdrawal of penalty notice or demand notice

- (1) The Authority may withdraw a penalty notice given, or a demand notice served, in respect of an offence under section 6(1)—
 - (a) 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 supplied by the person to whom, or on whom, the notice was given or served.

Part 3

Recovery of Fixed Penalty

7. Recovery of fixed penalty

- (1) This section applies if a person on whom a demand notice has been served—
 - (a) fails to pay the fixed penalty in accordance with the notice; and
 - (b) fails to notify the Authority in accordance with the notice that the person wishes to dispute liability for the offence.
- (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 6(1); or
 - (b) a person has been given leave under section 11(2) of this Schedule to dispute liability for an offence under section 6(1).
- (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 2 added L.N. 149 of 2020)