



Hong Kong courts – Latest guidance on COVID-19 measures

10 December 2020

Introduction

Given the severity of the “fourth wave” of COVID-19 which Hong Kong is currently experiencing, it became inevitable that the government would roll out tougher social distancing measures and that the courts would follow suit. On 1 December 2020, the judiciary issued its latest notification for stakeholders about the general arrangement of court and registries business. The courts and their registries very much remain open for business, but they are not dropping their guard.

Background

By the end of summer 2020 in Hong Kong, the third wave of COVID-19 appeared to be receding and some social distancing measures were eased. Daily reported cases of infections fell to single figures or zero and those cases that were identified tended to be so-called “imported cases” (ie residents returning to Hong Kong). However, towards the end of November 2020 it became evident that Hong Kong was experiencing a fourth wave, as the height of the flu season approached. One high profile casualty of the worsening situation in Hong Kong was the “travel bubble” with Singapore that had been due to commence at the end of November 2020, but which has now been put on hold.

If the first wave of COVID-19, at the beginning of 2020, was primarily attributed to residents travelling to and from mainland China, and the second and third waves to certain exempted persons travelling without restriction to Hong Kong and some returning residents, the fourth wave appears to be made up largely of locally transmitted cases. Many of these cases are related to “cluster groups” originating out of “dance studios”. Worryingly, it appears that the original source of many of the reported cases cannot be traced.

At the time of writing, Hong Kong is headed towards approximately 7,000 reported cases – up from approximately 5,400 about one month ago (in mid-November 2020), although thankfully to date there has not been a marked increase in the number of fatalities.

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The government has also announced the closure of kindergartens and schools until the new year. Most of the city’s approximately 177,000 civil servants are required to work from home as from 2 December 2020, unless they are providing emergency or essential on-site services. Strict social distancing regulations remain in place and have been tightened – for example, gatherings in public are now limited to two persons. Wearing facemasks in all indoor and outdoor public places remains compulsory and is observed.

Virtually all entertainment venues have closed for at least two weeks as from the end of November 2020. For now, restaurants (“dine-in” services close at 22.00) and gymnasiums remain open – a recognition by the government, perhaps, that people need to eat and that there is a high incidence of “eating out” in the city. To date, gymnasiums have not proved high risk, provided that users keep their distance, although they were closed for a period during the second wave.

Tougher fines for those who violate anti-pandemic measures are likely to be put in place. Mandatory testing is required for certain groups – for example, staff working at homes for the elderly (where cluster groups of infection have been discovered). Further mandatory testing is likely.

To date, Hong Kong has coped relatively well with COVID-19. While a fourth wave was not unexpected it would be fair to state that its severity has tested the local community and the government. The local economy is suffering from a long recession (now in its fifth quarter) that commenced before the onset of COVID-19. While the local stock markets remain reasonably buoyant and there appears to be plenty of capital coming in and out of Hong Kong, the story for many residents, families and small to medium businesses is very different.

Latest court notification

At the time of writing, the latest judiciary notification for stakeholders about the general arrangement of court business was announced on 1 December 2020 and the new measures take effect as from 7 December 2020.¹

The announcement recognises that the courts, tribunals and their registries provide an essential public service and implicit in that is that they should remain open for business, having closed for non-urgent business during the “general adjourned period” between 29 January 2020 to 3 May 2020. Since the general adjourned period, the courts (like the community) have adapted to COVID-19. Therefore, court staff are working full-time albeit in testing circumstances.

The announcement also recognises that the enhanced social distancing measures are likely to reduce the number of court hearings and the amount of business handled by court and tribunal registries and accounts offices.

Court hearings

The working assumption is that court hearings will continue as scheduled, unless otherwise directed by the court. Where possible, and in order to maximise the usage of courtrooms, half-day hearings may be adopted with court hours adjusted to 09.00 to 13.00 and 14.30 to 17.30 – therefore, starting earlier and finishing later.

Where appropriate, the courts will continue to make use of remote hearings and dispose of applications based on the court papers and paper submissions.

Handing down of judgments

From 7 December 2020 and until further notice, parties to High Court proceedings need no longer physically collect written judgments. Judgments (insofar as is practicable) will be uploaded onto the judgments section of the judiciary website on the same day as being handed down.

1. “Notification for Stakeholders about the General Arrangement of Court Business” (1 December 2020)

Registries and account offices

From 7 December 2020 until further notice, the court registries and accounts offices of all levels of court will reduce their operating hours to 08.45 to 12.30 and 14.00 to 17.00 (Monday to Friday) – therefore, losing half an hour over the “lunchtime” period and at the end of the day.

Enhanced crowd management measures will be put in place at the registries and accounts offices, including special queuing arrangements at designated areas where necessary. A “ticketing” system previously used in some registries is (for now) unlikely to be used again on account of having proved unpopular and impracticable.

Preventative measures

Stringent healthcare and preventative measures remain in place. Courtrooms and public and staff areas are regularly cleaned and disinfected and there are mandatory body temperature checks for anyone entering any court or judiciary premises. Seating capacity in courtrooms, court lobbies and reception areas continues to be reduced by half.

The latest announcement states (at paragraph 17) that court staff “will be more vigilant in enforcing the capacity limits and admission control”.

Staying vigilant

Given its proximity to mainland China, Hong Kong was one of the first jurisdictions to report local cases of COVID-19 and its experience serves as a lesson to many other jurisdictions. Until a widespread, trusted and effective vaccination programme is rolled out in the local community, the situation remains unsettling. However, the city’s general resolve remains strong and it has the experience of dealing with a previous serious coronavirus epidemic (SARS in 2003). Further announcements by the judiciary are expected.

Contact us

Please contact us if you have any queries regarding the issues raised in this article, or if you wish to consider any commercial dispute resolution matters in Hong Kong.

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