

LCQ13: Law enforcement for anti-epidemic measures

Following is a question by Dr the Hon Lo Wai-kiok and a written reply by the Secretary for Food and Health, Professor Sophia Chan, in the Legislative Council today (June 2):

Question:

Under the Prevention and Control of Disease (Compulsory Testing for Certain Persons) Regulation (Cap. 599J), the Secretary for Food and Health may issue a compulsory testing notice (CTN) requiring a specified category or description of persons to undergo compulsory coronavirus disease 2019 testing by a specified deadline, and a prescribed officer may make a compulsory testing order (CTO) to require a person who have failed to comply with a requirement under a CTN to undergo the testing by a revised deadline. A specified person who fails to comply with a requirement under a CTN commits an offence and is liable on conviction to a fine at level 3 (i.e. \$10,000), and such person may discharge liability for the offence by paying a fixed penalty of \$5,000. A person who fails to comply with a requirement under a CTO commits an offence and is liable on conviction to a fine at level 4 (i.e. \$25,000) and to imprisonment for six months. Besides, the Prevention and Control of Disease (Disclosure of Information) Regulation (Cap. 599D) empowers a health officer or an authorised officer to require a person to furnish or disclose information relevant to the handling of the public health emergency. A person who fails to comply with the requirement commits an offence and is liable on conviction to a fine at level 3 and to imprisonment for six months. In this connection, will the Government inform this Council:

(1) of (i) the number of persons who were issued a fixed penalty notice for failure to comply with a requirement under a CTN, and the respective numbers of persons who were convicted due to failure to comply with a requirement (ii) under a CTN, (iii) under a CTO and (iv) of disclosing the aforesaid type of information, since the outbreak of the epidemic, with a breakdown by the penalty imposed on the convicted persons; and

(2) whether it will consider amending the legislation to raise the penalties for the aforesaid offences, thereby enhancing the deterrent effect; if so, of the details; if not, the reasons for that?

Reply:

President,

The global epidemic situation remains severe with mutant variants ravaging many parts of the world. Although cases involving mutant variants have not yet caused an outbreak in the community, we should not let our guard down. It is essential for us to take all necessary measures to strengthen

epidemic control by guarding against the importation of cases and the resurgence of domestic infections, and to further enhance the precision of the control measures to be taken in a bid to achieve the target of "zero infection" with the support and co-operation of the general public.

My reply to the various parts of the question raised by Dr the Hon Lo Wai-kyok is as follows:

(1) Strengthening COVID-19 testing is an integral part of the epidemic control strategy of the Special Administrative Region (SAR) Government, which can help slow down the transmission of the virus by early identification, early isolation and early treatment. To further strengthen testing, the SAR Government enacted the Prevention and Control of Disease (Compulsory Testing for Certain Persons) Regulation (Cap. 599J) (the Regulation) in November 2020 to provide a legal framework for the Government to specify by compulsory testing notice (CTN) published in the Gazette a category or description of persons who are required to undergo a test for COVID-19, taking into account the epidemic development.

Under the Regulation, persons who fail to comply with the CTN may be fined a fixed penalty of \$5,000. If a prescribed officer has reason to believe that a person has failed to undergo a specified test in compliance with the requirement under a CTN, the prescribed officer may, within 30 days after the deadline of the CTN, by written order served on the person (compulsory testing order (CTO)) to require that person to undergo a specified test. Persons who fail to comply with a CTO is liable on conviction to a fine of \$25,000 and to imprisonment for six months.

Insofar as CTNs are concerned, the Department of Health has processed 1 532 CTOs and 251 fixed penalty notices as at May 23, 2021. Thus far, there has not been any conviction cases relating to non-compliance with CTOs.

On the other hand, pursuant to the Prevention and Control of Disease (Disclosure of Information) Regulation (Cap. 599D):

(i) if a health officer/an authorised officer reasonably believes that any information is within the knowledge, in the possession or under control of a person and is relevant to the handling of the public health emergency or identification and tracing of any person who may have been exposed to the risk of contracting the disease, the health officer/authorised officer may require that person to give the information. Any person who fails to comply with the requirement or gives any false or misleading information to a health officer/an authorised officer in a material particular commits an offence; and

(ii) Any person, when attended by a medical practitioner acting in the course of professional practice, knowingly gives to the medical practitioner any false or misleading information of the person that is relevant to the risk of exposure or contracting the disease, commits an offence.

Offenders are liable on conviction to a fine of \$10,000 and to

imprisonment for six months.

As at May 23, 2021, two persons have been sentenced to community service for 120 and 100 hours by the magistrates' courts respectively for contravening Cap. 599D.

(2) Generally speaking, most persons have complied with the requirements of CTN and CT0 in undergoing testing, or have provided information requested by health officers or authorised officers. The violations mentioned above are isolated cases. The Government will continue to closely monitor any further violations, and will timely review relevant measures and regulations.