

Regulations made by the Secretary of State, laid before Parliament under section 45R of the Public Health (Control of Disease) Act 1984 (c.22), for approval by resolution of each House of Parliament within twenty-eight days beginning with the day on which the instrument is made, subject to extension for periods of dissolution, prorogation or adjournment for more than four days.

STATUTORY INSTRUMENTS

2020 No. 592

PUBLIC HEALTH, ENGLAND

TRANSPORT, ENGLAND

**The Health Protection (Coronavirus, Wearing of Face Coverings
on Public Transport) (England) Regulations 2020**

Made - - - -

14th June 2020

Coming into force

15th June 2020

Laid before Parliament -

15th June 2020

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 45C(1), (3)(c) and (4)(d), 45F(2) and 45P(2) of the Public Health (Control of Disease) Act 1984(a).

These Regulations are made in response to the serious and imminent threat to public health which is posed by the incidence and spread of severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) in England.

The Secretary of State considers that the requirements imposed by these Regulations are proportionate to what they seek to achieve, which is a public health response to the threat.

In accordance with section 45R of that Act the Secretary of State is of the opinion that, by reason of urgency, it is necessary to make this instrument without a draft having been laid before, and approved by a resolution of, each House of Parliament.

(a) 1984 c. 22. Part 2A was inserted by section 129 of the Health and Social Care Act 2008 (c. 14). See section 45T of the 1984 Act for the definition of “appropriate Minister”.

PART 1

Introductory

Citation, commencement and application

1.—(1) These Regulations may be cited as the Health Protection (Coronavirus, Wearing of Face Coverings on Public Transport) (England) Regulations 2020.

(2) These Regulations come into force on 15th June 2020.

(3) These Regulations apply—

- (a) in England;
- (b) in English airspace to a person who is on board an aircraft which took off from, or is to land at, a place in England;
- (c) in the English territorial sea to a person who is on board a vessel which is not an excluded vessel.

(4) Nothing in these Regulations applies to a person who is completing a journey on a public transport service which they started before 15th June 2020.

(5) In this regulation—

- (a) “English airspace” means the airspace above England or above the English territorial sea;
- (b) “the English territorial sea” means the part of the territorial sea of the United Kingdom which is adjacent to England;
- (c) “excluded vessel” means a vessel(a) which—
 - (i) departed from a place other than a place in England, and
 - (ii) is to dock in a place other than a place in England.

Interpretation

2.—(1) In these Regulations—

“face covering” means a covering of any type which covers a person’s nose and mouth;

“public transport service” has the meaning given in paragraph (2);

“relevant person” has the meaning given in regulation 5;

“TfL” and “TfL officer” have the meanings given in regulation 5;

“vehicle” includes an aircraft, a cable car, a train and a vessel.

(2) “Public transport service” means any service for the carriage of passengers from place to place which is available to the general public (whether or not for payment, whether or not all of the places connected by the service are in England and whether or not there are breaks in the journey) but does not include—

- (a) a school transport service;
- (b) a taxi or private hire vehicle service;
- (c) any service provided by means of a cruise ship.

(3) For the purposes of paragraph (2)—

“school transport service” means any transport provided solely for the purpose of—

- (a) facilitating a person’s attendance at a school or other place at which they receive education or training, or
- (b) otherwise than for the reason in paragraph (a), carrying a person to and from the school or other place at which they receive education or training;

(a) “Vessel” is defined in section 74 of the Public Health (Control of Disease) Act 1984.

“taxi or private hire vehicle service” means a service provided by means of a vehicle licensed under—

- (a) section 37 of the Town Police Clauses Act 1847(a),
- (b) section 6 of the Metropolitan Public Carriage Act 1869(b),
- (c) section 48 of the Local Government (Miscellaneous Provisions) Act 1976(c),
- (d) section 10 of the Civic Government (Scotland) Act 1982(d),
- (e) section 7 of the Private Hire Vehicles (London) Act 1998(e), or
- (f) the Plymouth City Council Act 1987(f) or any other similar local enactment.

PART 2

Public transport: requirement to wear face covering

Requirement to wear a face covering when on public transport

3.—(1) No person may, without reasonable excuse, use a public transport service without wearing a face covering.

(2) For the purposes of paragraph (1), a person is using a public transport service at any time when—

- (a) they are boarding any vehicle by means of which a public transport service is provided, or
- (b) they are (whether or not for the purposes of travel) on board any vehicle by means of which a public transport service is provided.

(3) But the requirement in paragraph (1) does not apply—

- (a) to a child who is under the age of 11;
- (b) to an employee of the operator of the relevant public transport service acting in the course of their employment;
- (c) to any other person providing services under arrangements made with the operator of the relevant public transport service who is providing those services;
- (d) to a constable or police community support officer acting in the course of their duty;
- (e) to an emergency responder (other than a constable) acting in their capacity as an emergency responder;
- (f) to a relevant official acting in the course of their employment or their duties;
- (g) where a person is allocated a cabin, berth or other similar accommodation, at any time when they are in that accommodation—
 - (i) alone, or
 - (ii) only with members of their own household or a linked household;
- (h) where—
 - (i) a person is permitted, or ordinarily required, to board and to remain in a vehicle when using the public transport service, and

(a) 1847 c. 89 (Regnal. 10 & 11 Vict).

(b) 1869 c. 115 (32 & 33 Vict). Section 6 was substituted by the Greater London Authority Act 1999 (c. 29), Schedule 20, paragraph 5(3) and amended by S.I. 2014/1560.

(c) 1976 c.57. Section 48 was amended by the Road Traffic (Consequential Provisions) Act 1988 (c.54), Schedule 3, paragraph 16(1).

(d) 1982 c. 45. Section 10 was amended by the Civil Procedure (Scotland) Act 1975 (c. 21), section 289G, the Transport Act 1985 (c. 67), Schedule 7, paragraph 25, the Disability Discrimination Act 1995 (c. 50), section 39, and the Air Weapons and Licensing (Scotland) Act 2015 (asp 10), section 63.

(e) 1998 c. 34. Section 7 was amended by the Greater London Authority Act 1999, Schedule 21, paragraphs 2 and 4.

(f) 1987 c. iv. See in particular section 20 of that Act.

- (ii) the vehicle is not itself used for the provision of a public transport service, the person remains in that vehicle.

(4) In this regulation—

“emergency responder” has the same meaning as for the purposes of section 153A of the Inheritance Tax Act 1984^(a);

“linked household” has the meaning given in regulation 7A of the Health Protection (Coronavirus, Restrictions) (England) Regulations 2020^(b);

“relevant official” means—

- (a) an inspector, or a surveyor of ships, appointed under section 256 of the Merchant Shipping Act 1995 (“the 1995 Act”)^(c);
- (b) a pilot (within the meaning given in paragraph 22(1) of Schedule 3A to the 1995 Act^(d));
- (c) a civil aviation inspector, as defined in Annex 9 to the Convention on International Civil Aviation signed at Chicago on 7th December 1944^(e);
- (d) a border force officer (within the meaning given in paragraph 7 of the Schedule 20 to the Coronavirus Act 2020^(f)).

Reasonable excuse

4. For the purposes of regulation 3(1), the circumstances in which a person (“P”) has a reasonable excuse include those where—

- (a) P cannot put on, wear or remove a face covering—
 - (i) because of any physical or mental illness or impairment, or disability (within the meaning of section 6 of the Equality Act 2010^(g)), or
 - (ii) without severe distress;
- (b) P is travelling with, or providing assistance to, another person (“B”) and B relies on lip reading to communicate with P;
- (c) P removes their face covering to avoid harm or injury, or the risk of harm or injury, to themselves or others;
- (d) P is travelling to avoid injury, or to escape a risk of harm, and does not have a face covering with them;
- (e) if it is reasonably necessary for P to eat or drink, P removes their face covering to eat or drink;
- (f) P has to remove their face covering to take medication;
- (g) a relevant person requests that P remove their face covering.

(a) 1984 c. 51. Section 153A was inserted by the Finance Act 2015 (c. 11), section 75.

(b) S.I. 2020/350, amended by S.I. 2020/447, 500, 558 and 588.

(c) 1995 c. 21. There are amendments to section 256 but none is relevant.

(d) Schedule 3A to the 1995 Act was inserted by the Marine Safety Act 2003 (c. 16), Schedule 1. There are amendments to Schedule 3A but none is relevant.

(e) The latest edition of Annex 9, which is published by the International Civil Aviation Organization, is the 15th edition, which applied from 23rd February 2018 (ISBN 978-92-9258-301-9).

(f) 2020 c. 7.

(g) 2010 c. 15.

PART 3

Enforcement

Enforcement of requirement to wear face covering whilst using public transport

5.—(1) Where a relevant person considers that another person is, at the time of boarding, not wearing a face covering, in contravention of the requirement in regulation 3, the relevant person may deny boarding of the relevant vehicle to that person.

(2) Where a relevant person considers that a person is not wearing a face covering, in contravention of the requirement in regulation 3, the relevant person may—

- (a) direct that person to wear such a covering;
- (b) direct that person to disembark from the relevant vehicle.

(3) Where a person does not comply with a direction given to them by a constable under paragraph (2)(b), the constable may remove them from the relevant vehicle.

(4) A constable exercising the power in paragraph (3) may use reasonable force, if necessary, in the exercise of the power.

(5) Where a relevant person has reasonable grounds to believe that a relevant child is failing to comply with the requirement in regulation 3, the relevant person may direct any individual who has responsibility for the relevant child to secure, so far as reasonably practicable, that the child complies with the requirement.

(6) For the purposes of this regulation, an individual has responsibility for a relevant child if the individual—

- (a) has custody or charge of the child for the time being, or
- (b) has parental responsibility for the child within the meaning given in section 3 of the Children Act 1989^(a).

(7) A person may only exercise a power in paragraph (2) or (3) if they consider it necessary and proportionate to ensure compliance with the requirement in regulation 3.

(8) In this regulation, “relevant child” means a child who is aged 11 or over.

(9) In these Regulations—

“relevant person” means—

- (a) a constable;
- (b) a police community support officer;
- (c) in relation to a public transport service provided by TfL or a TfL contractor, a TfL officer;
- (d) in relation to a public transport service provided by any other operator—
 - (i) the operator, or
 - (ii) any employee or agent of the operator who is authorised by the operator for the purposes of this regulation;
- (e) a person designated by the Secretary of State for the purposes of this regulation;

“relevant vehicle” means a vehicle by means of which a public transport service is provided;

“TfL” means—

- (a) Transport for London^(b), or
- (b) a subsidiary (within the meaning of section 1159 of the Companies Act 2006^(c)) of Transport for London;

^(a) 1989 c. 41.

^(b) Transport for London is a body corporate established by section 154 of the Greater London Authority Act 1999 (c. 29).

^(c) 2006 c. 46.

“TfL contractor” means a contractor who provides a public transport service on behalf of TfL;

“TfL officer” means any of the following whilst acting in the course of their duties—

- (a) an employee or agent of TfL;
- (b) an employee or agent of a TfL contractor.

Offence and penalties

6.—(1) A person who contravenes the requirement in regulation 3 commits an offence.

(2) A person who obstructs, without reasonable excuse, any person carrying out a function under these Regulations commits an offence.

(3) A person who, without reasonable excuse, contravenes a direction given under regulation 5(2) commits an offence.

(4) An offence under this regulation is punishable on summary conviction by a fine.

(5) Section 24 of the Police and Criminal Evidence Act 1984(a) applies in relation to an offence under this regulation as if the reasons in subsection (5) of that section included—

- (a) to maintain public health;
- (b) to maintain public order.

Fixed penalty notices

7.—(1) An authorised person may issue a fixed penalty notice to anyone that the authorised person reasonably believes—

- (a) has committed an offence under these Regulations, and
- (b) is aged 18 or over.

(2) A fixed penalty notice is a notice offering the person to whom it is issued the opportunity of discharging any liability to conviction for the offence by payment of a fixed penalty to the authority specified in the notice.

(3) The authority specified in the notice must be an officer designated by the Secretary of State for the purposes of this regulation (“the designated officer”).

(4) Where a person is issued with a notice under this regulation in respect of an offence—

- (a) no proceedings may be taken for the offence before the end of the period of 28 days following the date of the notice;
- (b) the person may not be convicted of the offence if the person pays the fixed penalty before the end of that period.

(5) A fixed penalty notice must—

- (a) give reasonably detailed particulars of the circumstances alleged to constitute the offence;
- (b) state the period during which (because of paragraph (4)(a)) proceedings will not be taken for the offence;
- (c) specify the amount of the fixed penalty;
- (d) state the name and address of the designated officer to whom the fixed penalty may be paid;
- (e) specify permissible methods of payment.

(6) The amount specified under paragraph (5)(c) must, subject to paragraph (7), be £100.

(7) A fixed penalty notice must specify that if £50 is paid before the end of the period of 14 days following the date of the notice that is the amount of the fixed penalty.

(a) 1984 c. 60. Section 24 was substituted by the Serious Organised Crime and Police Act 2005 (c. 15), section 110(1).

(8) Whatever other method may be specified under paragraph (5)(e), payment of a fixed penalty may be made by pre-paying and posting to the person whose name is stated under paragraph (5)(d), at the stated address, a letter containing the amount of the penalty (in cash or otherwise).

(9) Where a letter is sent as mentioned in paragraph (8), payment is regarded as having been made at the time at which the letter would be delivered in the ordinary course of the post.

(10) In any proceedings, a certificate—

(a) that purports to be signed by or on behalf of the designated officer, and

(b) states that the payment was, or was not, received by the date specified in the certificate, is evidence of the facts stated.

(11) In this regulation, “authorised person” means—

(a) a constable,

(b) a police community support officer,

(c) in relation to a public transport service provided by TfL, a TfL officer, or

(d) a person designated by the Secretary of State for the purposes of this regulation.

Prosecutions

8. Proceedings for an offence under these Regulations may be brought by the Crown Prosecution Service and any person designated by the Secretary of State.

Review

9. The Secretary of State must review the need for the requirements imposed by these Regulations before the end of the period of six months beginning with the day on which they come into force.

Expiry

10.—(1) These Regulations expire at the end of the period of 12 months beginning with the day on which they come into force.

(2) This regulation does not affect the validity of anything done pursuant to these Regulations before they expire.

14th June 2020

Grant Shapps
Secretary of State
Department for Transport

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations require members of the public to wear face coverings whilst using public transport (such as buses, trains, the London Underground, trams, aircraft and water taxis) in England to protect against the risks to public health arising from coronavirus, except in certain limited cases.

The Secretary of State must carry out a review of the need for the requirements in these Regulations within the period of 6 months of their coming into force.

No regulatory impact assessment has been prepared for these Regulations.

An Explanatory Memorandum has been published alongside this instrument at www.legislation.gov.uk.