

EXPLANATORY MEMORANDUM TO
THE HEALTH PROTECTION (CORONAVIRUS, WEARING OF FACE
COVERINGS IN A RELEVANT PLACE AND ON PUBLIC TRANSPORT)
(ENGLAND) (AMENDMENT) (NO. 2) REGULATIONS 2020

2020 No. 1021

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Transport and is laid before Parliament by Command of Her Majesty.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

- 2.1 This instrument makes provision to amend the Health Protection (Coronavirus, Wearing of Face Coverings on Public Transport) (England) Regulations 2020 (“the Public Transport Regulations”) to extend an existing requirement, to wear a face covering on public transport, to those travelling in taxis and private hire vehicles. It also corrects errors in the Public Transport Regulations and the Health Protection (Coronavirus, Wearing of Face Coverings in a Relevant Place) (England) Regulations 2020 (“the Relevant Place Regulations”) to provide greater clarity.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments.

- 3.1 The instrument is made under the emergency procedure set out in section 45R of the Public Health (Control of Disease) Act 1984 (c. 22). The Regulations are made without a draft having been laid and approved by a resolution of each House of Parliament. It is the opinion of the Secretary of State that, by reason of urgency, it is necessary to make the order without a draft being so laid and approved so that public health measures can be taken 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). The Regulations come into force on 23 September 2020 and are published on www.legislation.gov.uk. The Regulations cease to have effect at the end of the period of 28 days beginning with the day on which the instrument is made unless, during that period, the instrument is approved by a resolution of each House of Parliament. Further, both the Public Transport Regulations and the Relevant Place Regulations, which this instrument amends, expire at the end of the twelve months beginning with the day on which they came into force.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

- 3.2 This entire instrument applies to England only.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is England and Wales

4.2 The territorial application of this instrument is England.

5. European Convention on Human Rights

5.1 The Secretary of State for Transport, Grant Shapps MP, has made the following statement regarding Human Rights:

5.2 “In my view the provisions of the Health Protection (Coronavirus, Wearing of Face Coverings in a Relevant Place and on Public Transport) (England) (Amendment) (No. 2) Regulations 2020 are compatible with the Convention rights.”

6. Legislative Context

6.1 The Public Transport Regulations and the Relevant Place Regulations (collectively “the Face Coverings Regulations”), came into force on the 15th June 2020 and the 24th July 2020 respectively.

6.2 The Face Coverings Regulations were made under Part 2A of the Public Health (Control of Disease) Act 1984 (“the 1984 Act”), as inserted by the Health and Social Care Act 2008 (“the 2008 Act”), which provide a legal basis for protecting the public from threats arising from infectious disease or contamination from chemicals or radiation, and includes powers to impose restrictions or requirements on people, and in relation to things and premises, for use in rare circumstances where voluntary cooperation cannot be obtained. Overall, the amended 1984 Act sets out a framework for health protections which requires many of the detailed provisions to be delivered through regulations.

6.3 Section 45C of the 1984 Act provides a power for the appropriate Minister to make regulations to prevent, protect against, control or provide a public health response to the incidence or spread of infection or contamination in England and Wales. The threat can come from outside England and Wales.

6.4 The instrument is made under section 45C to support an effective response to reduce public health risks posed by the incidence and spread of SARS-CoV-2. The instrument is part of a wider set of measures introduced to respond to those public health risks.

6.5 The Face Coverings Regulations mandate the wearing of face coverings on public transport and within a “relevant place” (such as shops, shopping centres, indoor portions of transport hubs and other indoor premises). This new instrument amends the Public Transport Regulations and extends the requirement to wear face coverings on public transport to those travelling in taxis and private hire vehicles. It also corrects errors in the both of the Face Coverings Regulations to provide greater clarity.

7. Policy background

What is being done and why?

7.1 On 15th June 2020, [the Public Transport Regulations](#) were introduced under the Public Health (Control of Disease) Act 1984 which requires passengers travelling in England by bus, coach, tram, ferry, hovercraft, cable car, aircraft, and domestic and international train to wear a face covering, including on excursion and leisure trips. This regulation does not apply to school transport services, cruise ships, and taxis and private hire vehicles.

- 7.2 This new statutory instrument removes the exemptions for taxis and private hire vehicles. Emerging data has demonstrated that taxi and private hire vehicle drivers are more likely to be vulnerable to Covid-19 due to being male (98% of drivers) or from an ethnic minority (53% of drivers). The Office for National Statistics has identified drivers of taxis and private hire vehicles as high-risk occupations, having higher rates of death involving Covid-19 (65.3 per 100,000) than bus and coach drivers (44.2) and van drivers (26.7).
- 7.3 There is an emerging body of evidence showing the effectiveness of face coverings as source control against COVID-19 transmission. Current government guidance states “the best available scientific evidence is that, when used correctly, wearing a face covering may reduce the spread of coronavirus droplets in certain circumstances, helping to protect others”. While face coverings are not a substitute for other non-pharmaceutical interventions such as social distancing and hand hygiene, they can offer some limited protection to others, particularly where distancing is difficult to manage, such as in taxis and private hire vehicles.
- 7.4 Taxi and private hire vehicle industry stakeholders have demonstrated strong support for mandating face coverings in their transport settings. Taxi drivers may in principle be able to refuse carriage for not wearing a face covering and PHV operators can make the wearing of face covering a condition of travel. However, the requirement to wear face coverings is not being consistently applied across the taxi and private hire vehicle sector which has caused confusion for passengers and drivers. This statutory instrument brings taxis and private hire vehicles into alignment with other transport modes, and would facilitate consistent messaging and communications. The public are becoming used to wearing face coverings and this is seen as key to passenger confidence and encouraging people to take public transport.
- 7.5 Since the easing of lockdown, taxis and private hire vehicles are playing an important part in economic restart. This vital role supports key workers, vulnerable passengers unable to use public transport, and school children, particularly those with special education needs. In local lockdown areas, taxis and private hire vehicles are often called upon to provide essential journeys. Taxis and private hire vehicles will continue to play an important role in economic restart and as society prepares for a potential second wave of Covid-19 cases.
- 8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union**
- 8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act
- 9. Consolidation**
- 9.1 No consolidation is being undertaken.
- 10. Consultation outcome**
- 10.1 There has been no public consultation in relation to this instrument.
- 11. Guidance**
- 11.1 The Government has published guidance in relation to Covid-19 at www.gov.uk/coronavirus and this will be updated to reflect the changes made by this

instrument. The Department for Transport has published guidance for operators and passengers on travelling safely during the Covid-19 outbreak.

12. Impact

- 12.1 There is no, or no significant, impact on business, charities or voluntary bodies.
- 12.2 There is no, or no significant, impact on the public sector.
- 12.3 An Impact Assessment has not been prepared for this instrument because this measure will be in place for less than 12 months.

13. Regulating small business

- 13.1 The legislation applies to activities that are undertaken by small businesses.
- 13.2 No specific action is proposed to minimise regulatory burdens on small businesses.

14. Monitoring & review

- 14.1 The instrument ceases to have effect when the Face Coverings Regulations to which it refers cease to have effect.
- 14.2 Both Face Coverings Regulations have review clauses at six months.

15. Contact

- 15.1 Conrad Bailey/Sara Skobdo, Directors – COVID-19 at the Department for Transport - Telephone: 07966 511823/07866012876 or email: CM.GoldPolicy@dft.gov.uk - can be contacted with any queries regarding the instrument.
- 15.2 Abigail Hayes/Daniel Thomas, Deputy Directors for COVID-19 Restart, at the Department for Transport can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 The Rt Hon Grant Shapps MP, Secretary of State at the Department for Transport can confirm that this Explanatory Memorandum meets the required standard.