

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

First Delegated Legislation Committee

HEALTH PROTECTION (CORONAVIRUS, WEARING
OF FACE COVERINGS ON PUBLIC TRANSPORT)
(ENGLAND) REGULATIONS 2020

Monday 6 July 2020

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The Committee consisted of the following Members:

Chair: STEWART HOSIE

Afolami, Bim (<i>Hitchin and Harpenden</i>) (Con)	† Henry, Darren (<i>Broxtowe</i>) (Con)
Barker, Paula (<i>Liverpool, Wavertree</i>) (Lab)	† Lamont, John (<i>Berwickshire, Roxburgh and Selkirk</i>) (Con)
Butler, Dawn (<i>Brent Central</i>) (Lab)	† Richardson, Angela (<i>Guildford</i>) (Con)
Butler, Rob (<i>Aylesbury</i>) (Con)	† Sunderland, James (<i>Bracknell</i>) (Con)
† Charalambous, Bambos (<i>Enfield, Southgate</i>) (Lab)	Twigg, Derek (<i>Halton</i>) (Lab)
† Courts, Robert (<i>Witney</i>) (Con)	† Webb, Suzanne (<i>Stourbridge</i>) (Con)
Davies-Jones, Alex (<i>Pontypridd</i>) (Lab)	Yasin, Mohammad (<i>Bedford</i>) (Lab)
† Dhesi, Mr Tanmanjeet Singh (<i>Slough</i>) (Lab)	
† Docherty, Leo (<i>Aldershot</i>) (Con)	Ben Street, <i>Committee Clerk</i>
† Heaton-Harris, Chris (<i>Minister of State, Department for Transport</i>)	† attended the Committee

First Delegated Legislation Committee

Monday 6 July 2020

[STEWART HOSIE *in the Chair*]

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

5 pm

The Minister of State, Department for Transport (Chris Heaton-Harris): I beg to move,

That the Committee has considered the Health Protection (Coronavirus, Wearing of Face Coverings on Public Transport) (England) Regulations 2020 (S.I. 2020, No. 592).

It is a pleasure to serve under your chairmanship, Mr Hosie. You and the Committee might find it interesting to hear that my officials did some detailed notes for me, and I had the interesting dilemma of having a range of choices as to the length of my speech. Unfortunately for all present, I have not gone for the shortest version, because a number of things need some airing in a public forum. However, people might be happy to know that I have not gone for the longest.

I have a number of important points to make in the debate. We have introduced the regulations to make it mandatory for passengers to wear face coverings while using public transport services in England. This instrument was made on 14 June under the powers conferred by the Public Health (Control of Disease) Act 1984. It is being brought before the Committee today for the scrutiny and debate that it requires, and to ensure that due process and the rule of law are maintained.

The regulations are in Committee for scrutiny and debate under the emergency procedure approved by Parliament for such measures. It should be noted that, above all, the regulations will help to save lives. That is why Parliament has given Ministers these powers. There has already been a huge amount of public debate and scrutiny of the issues.

I hope that most agree that the regulations are exceptional measures, but a necessary response to the serious and immediate threat to public health posed by the spread of coronavirus, that have been introduced to mitigate the unprecedented impact of the covid-19 pandemic. They comply with all the Government's human rights obligations.

This country has been, and still is, engaged in a national effort to beat coronavirus. We are moving along a path of cautious relaxation of some of the restrictions, taking small steps to ease the measures, guided by the science. The public transport network is vital to the safe relaxation of the restrictions. Our advice remains to work from home if people can and to avoid public transport where possible, but demand for public transport has now increased as sectors of the economy reopen and more people return to work. In the not too distant future, as rail Minister, I hope that we can change our messaging to welcome more people back on public transport.

The Government are committed to ensuring the safety of passengers travelling on the transport network during the pandemic. Wearing a face covering provides some protection to those around people where social distancing is difficult to maintain. That requirement sits alongside existing advice on social distancing and the practice of hand hygiene, which remain critical. The regulations were made to coincide with the easing of other lockdown measures, to help people protect one another on public transport where it is not always easy to socially distance.

I will outline what the regulations do and set out the policies and processes underlying their development and implementation, finally moving to their monitoring and review. The regulations introduce a requirement for passengers to wear a face covering while travelling by public transport in England from 15 June, unless they are exempt or have a reasonable excuse not to. They apply to passengers when travelling on public transport in England, including by bus, coach, tram, ferry, hovercraft, cable car, aircraft, and domestic or international train. School transport services, services provided by taxi private-hire vehicles and cruise ships are excluded from the scope of the regulations.

We have introduced the measure to help people protect one another on public transport, where social distancing is sometimes very difficult, as the evidence shows that wearing a face covering offers some protection from transmitting the virus to others. The regulations sit alongside the other advice.

The regulations describe a "face covering" as "a covering of any type which covers a person's nose and mouth".

People should make or buy their own. We are asking people not to use medical-grade personal protective equipment, as that must be reserved for health and care workers. However, someone wearing PPE would obviously be compliant with the regulations.

While the Government expect the vast majority of people to comply with the changes voluntarily, the regulations include powers for operators and the police to deny access to service, direct someone to wear a face covering or direct someone who is not wearing a face covering to leave a service. Operators have discretion over whether they choose to use those powers. They do not have an obligation to do so.

The police also have the power to remove passengers from vehicles if it is reasonable or necessary for them to do so, and to direct an individual who has responsibility for a child aged 11 or over to ensure that the child complies with the regulations. If a passenger chooses not to comply, there are new powers for the police and for Transport for London authorised personnel to issue fixed penalty notices of £100, or £50 if they are paid within 14 days. Children younger than 18 cannot be issued with a fixed penalty notice.

The regulations create new criminal offences: it is now an offence not to wear a face mask or face covering on public transport unless you are exempt or have a reasonable excuse, to obstruct a person carrying out a function under the regulations or to contravene a direction given by transport operators, staff or the police with regard to face coverings. Those offences are punishable with an unlimited fine. The Crown Prosecution Service has prosecution powers, as does Transport for London following the designation order made by the Secretary of State for Transport on 30 June.

Working with British Transport police, we have developed a six-step process for escalation and enforcement, with an initial focus on communicating the requirement to passengers. Engagement, rather than enforcement, is our preferred approach, with enforcement as a last resort. We expect to see a gradual ramp-up of enforcement, supported by significant communications campaigns over the coming days, weeks and months. The six-stage process is based on common sense and draws on years of experience from British Transport police and public transport operators, which call them the six Es: engage, explain, encourage, enable, entry—or lack thereof—and enforcement.

Although we want as many people as possible to wear face coverings, we recognise that some people are not able to wear a covering, for a host of reasons. As a result, the regulations exempt certain people and provide a non-exhaustive list of what is described as a “reasonable excuse” not to wear a face covering. People who therefore do not need to wear a face covering include those with certain disabilities or health issues that mean that they might not be able to wear one, and children younger than 11. People also do not need to wear a face covering if they are travelling with, or providing assistance to, someone who relies on lip reading and facial expressions to communicate. I place on record here my thanks to the various disability groups and accessibility campaigners who have advised me and the Department on these issues.

We have also taken into account other circumstances in which some people do not need to wear a face covering or can remove it for recent reasons of safety or practicality. Passengers can remove their face covering to avoid harm or injury to themselves or others, to take medication, and, if it is reasonably necessary, to eat or drink. People do not have to wear a face covering if they are travelling to avoid injury or to escape the risk of harm and they do not have a face covering with them. Being asked to remove a face covering by the police or a transport operator is also included as a reasonable excuse. We have been working with the transport operators to ensure that customers, passengers and staff are aware of all these exemptions and that they are in place. There has been quite a big marketing campaign around that by the various train operating companies.

The regulation applies only to passengers. It does not apply to the transport workforce, the police and emergency responders or other public officials in the course of their work. The wearing of any protective clothing or PPE by the workforce is a matter for the operators to address, following a risk assessment and as part of their health and safety responsibilities.

We have worked closely with transport operators to ensure widespread communications around the need to wear face coverings on public transport. We have set out the detail of this policy in our guidance, including information on enforcement and the exemptions in place for those unable to wear a face covering. As expected, initial reports from operators indicate widespread compliance with the requirement to wear a face covering on public transport, and there is significant public support for this measure.

Office for National Statistics public surveys show a significant increase in the number of passengers wearing a face covering while travelling on public transport in England. The figure rose from 57% between 4 and

7 June, before these regulations came into place, to 91% between 22 and 28 June. We are working closely with operators and British Transport police to monitor levels of compliance and enforcement.

Importantly, a review clause is included in the regulations. That requires a review at least every six months of the need for the requirements imposed by the regulations, and a sunset clause is included so that the regulations expire 12 months after the day they came into force. We will continue to monitor the impact and effectiveness of this policy in the coming weeks and months, and we will develop our approach to enforcement and communicating the policy as necessary.

The Committee might like to know that I had numerous conversations with the transport unions and an extremely helpful conversation with the shadow Secretary of State about these matters before the regulations came into effect.

The Government are committed to ensuring the safety of passengers travelling on the public transport network during this pandemic. The mandatory requirement to wear a face covering on public transport is a key addition to our safer transport guidance for passengers and will help to maintain public health as lockdown measures are eased. We believe that the requirements imposed by these regulations are proportionate to what they seek to achieve, which is a public health response to the threat. I commend the regulations to the Committee.

5.11 pm

Mr Tanmanjeet Singh Dhesi (Slough) (Lab): It is a pleasure to see you in the Chair, Mr Hosie, especially for my first opportunity to respond to legislation as a Front-Bench MP. I start by thanking the Minister not only for providing advance notice of this statutory instrument to the shadow Secretary of State for Transport and to me, but for the briefing that he offered me last week with his team and civil servants. That was valuable in providing further details on the statutory instrument and addressed some of the queries that I had, and I thank them all for their time.

Although the statutory instrument imposes time-limited restrictions on people’s personal liberties, it is important for the reasons the Minister has just outlined: to reduce the spread of coronavirus and, ultimately, to save lives. I agree that this is a proportionate measure to achieve those aims and I do not think it particularly controversial. I and the Labour party wholeheartedly share the Government’s aim of defeating coronavirus and protecting public health. I therefore support the SI, but I would like to take a few moments to place a few points of concern on the record.

The first point, and perhaps the most important from a public health perspective, is that although this measure is welcome, it should have been implemented long before now, as Labour consistently called for. The Government have once again been too slow to act. The SI was laid in Parliament, and came into force, on 15 June. On the same day, the Foreign Secretary stated in the Government’s daily press briefing that across the country there were 1,056 new coronavirus cases. That figure was thankfully part of a sustained trend of declining cases and came as the Foreign Secretary was also announcing that some of the lockdown restrictions from March were being relaxed. I do understand that, as the Government relax lockdown

[Mr Tanmanjeet Singh Dhési]

restrictions, they want to keep the infection rate low and prevent a resurgence of the virus, but why are the Government only now introducing this simple step of infection control? Surely a much more sensible time to have introduced these measures was at the start of lockdown itself, months ago, when we were experiencing approximately 6,000 cases a day. Why was no effort made to introduce this then? That was a time when those using our public transport network were largely essential workers, yet the Government chose not to take this basic step to protect them from contracting coronavirus.

I expect the Government to say that they have been following World Health Organisation advice, but this SI does not in fact follow that advice. The WHO updated its advice on 5 June to recommend that cloth masks made from at least three layers of fabric be worn by the public on public transport, in shops and in other confined or crowded environments. Ten days later, we get the statutory instrument we are considering today, but it makes no mention whatever of the fact that the public must wear face masks that have at least three layers of fabric. In fact, it makes no mention of face masks at all. Actually, a T-shirt pulled up over one's mouth and nose, or a visor that does not make any contact with one's mouth and nose, are face coverings. Although such coverings are completely fine under this SI, they are a far cry from the recommendations of the WHO. In that respect, this measure is yet another missed opportunity to take the steps that are needed to protect people using public transport.

On compliance, since this measure was introduced, we have seen patchy figures for people wearing face coverings on public transport, so it would be good to hear how the Government plan to monitor compliance and take steps to increase the number of people wearing face coverings.

It is my considered view that enforcement of this legislation is a job for the police and not for transport staff, so I would be grateful if the Minister reassured me that the issuing of fixed penalty notices will be done exclusively by the police and perhaps by Transport for London enforcement officers as applicable, but not by other transport staff. If the Government expect other transport workers to enforce these restrictions, what training and additional protections will they provide to keep transport workers safe from abuse in their place of work?

Across the UK, public health is a devolved matter, but there is obviously a large amount of cross-border travel on public transport, as I am sure you will attest, Mr Hosie, so I ask the Minister to guarantee that the Government will take a joined-up approach with the devolved Governments to ensure that, as passengers travel across borders, they comply with the different and evolving requirements in each nation.

The Minister, as he will no doubt be aware, is required to review this SI in six months, but I hope that before then he will consider the issues raised in today's debate, seek feedback from the police, transport unions and operators as to the impact that this SI is having, and—if necessary—make changes sooner rather than later.

I realise that this is a period of some uncertainty and that the situation we are in today will probably not be the same months or even weeks from now, so I reaffirm to the Minister my commitment to work with him

constructively on all issues, but especially on this one; I am sure he will agree that it is too important an issue not to get right. On that note, I thank him for his co-operation, and I thank you, Mr Hosie, for giving me the opportunity to speak today.

5.18 pm

Bambos Charalambous (Enfield, Southgate) (Lab): I want to ask the Minister just a couple of questions. I very much welcome the regulations and I entirely agree with the speech made by my hon. Friend the Member for Slough and with the Minister's remarks. However, I have been lobbied by the Hadley Wood rail user group, which has concerns about safety on public transport.

One of the group's concerns is whether wearing a face mask also relates to stations and to the outside of carriages before a train leaves the station. The group's other concern is about whether there will be sufficient resources for enforcement as to people breaching these regulations—so, whether there will be sufficient resources, including sufficient staff, to make sure that there is proper enforcement.

Those are the only issues I want to raise, and I am sure the Minister will respond to them.

5.19 pm

Chris Heaton-Harris: I thank the hon. Member for Slough, who spoke for the Opposition, and the hon. Member for Enfield, Southgate for their contributions. I will answer their questions briefly and hopefully we can draw this debate to a close.

I guess that I should answer the concerns of the hon. Member for Enfield, Southgate first. We are trying to encourage people to wear face coverings wherever possible. Today, we had an uplift in our rail services to nearly 87% of normal capacity. We have an extra 4,500 people out and about across the railway network to engage with people as they enter stations, to remind them that they need to wear face coverings. In fact, since the regulations came into effect, and for another couple of weeks, we have been facilitating people doing so by providing face coverings at most stations up and down the country.

We have huge numbers of people and Volunteering Matters, a fantastic charity, assisting us at certain transport interchanges across the across the country and outside stations, to engage with people and make their journey more friendly, and so they are not surprised by what they see when they enter a station. I was sent pictures of Liverpool Street station at 7.30 this morning, where more people were looking out for passengers to advise them about wearing face coverings than there were passengers—something I hope changes in the not-too-distant future.

I like to think that we are getting the tone of this about right. The vast majority of the public are keen to support such public health measures, and do. To be frank, we have seen that people who are travelling for leisure are slightly less likely to wear face coverings, so we probably need to enhance our communications so that they understand that this measure applies to them as well. I have, however, been impressed by the way the British public have reacted to what we have needed to do.

The hon. Member for Slough asked about a couple of points, which I will take on. He asked who can issue fixed penalty notices. That is only the police and TfL enforcement officers, as one might rightly expect. Fortunately, they are not having to issue too many. Interestingly, TfL enforcement officers did a spot check today—or a spot count, which is counts of people getting on and off different modes of transport with or without face coverings—and they did a count on buses over the weekend, where there is a lower level of compliance with the measure. That guides us on our next steps as to what we need to do and where we need to target. That sort of statistic—based on fact, on what we can actually see happening—points to where we move next.

The hon. Gentleman pointed out that perhaps we should have moved sooner. The Government have said consistently throughout the pandemic that we are guided by the scientific advice that we are given. He should also understand that very few people were travelling on public transport in the early stages of the pandemic. On trains, in some places, we got to a 95% drop in passengers. Therefore, it was very easy and simple to maintain social distances of way more than 2 metres. Now, as we release lockdown, more and more people—we hope—will gradually be using public transport as the advice morphs into a more positive frame. It was therefore thought to be logical to add a further mitigating measure of requiring face coverings at that time.

The hon. Gentleman mentioned international travel and—as you are in the Chair, Mr Hosie—what happens

when someone is on a train travelling to Scotland or Wales, where the requirements might be different. Actually, the requirements in Scotland are exactly the same and—to join two points together and to make a slightly political point when I probably should not be making any political points at all—the Government have acted on the science given to all the nations' Governments, but in Wales face coverings are only recommended. It is actually Labour Wales that is slightly behind the curve on this particular issue, although we fully expect it to join us in the not-too-distant future.

Anecdotally, the stories suggest that people getting on public transport across all the nations of this country are using face coverings in the appropriate way, at the appropriate time, and in similar percentages, no matter what the guidance has been, even if it had been different in different areas. We consider the safety of the public as they travel on the public transport network during this pandemic to be vital, which is why we introduced the regulations when we did.

We also recognise the importance of Parliament having an opportunity to scrutinise the regulations, which is why I am pleased to have set out their content in Committee today. I hope that the Committee has found our interactions informative and will join me in supporting the regulations.

Question put and agreed to.

5.25 pm

Committee rose.

