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PARLIAMENTARY DEBATES  
(HANSARD)

# HOUSE OF LORDS

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<b>Abbreviation</b>	<b>Party/Group</b>
CB	Cross Bench
Con	Conservative
DUP	Democratic Unionist Party
GP	Green Party
Ind Lab	Independent Labour
Ind LD	Independent Liberal Democrat
Ind SD	Independent Social Democrat
Ind UU	Independent Ulster Unionist
Lab	Labour
Lab Co-op	Labour and Co-operative Party
LD	Liberal Democrat
LD Ind	Liberal Democrat Independent
Non-afl	Non-affiliated
PC	Plaid Cymru
UKIP	UK Independence Party
UUP	Ulster Unionist Party

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# House of Lords

Friday 18 September 2020

*The House met in a hybrid proceeding.*

11 am

*Prayers—read by the Lord Bishop of Peterborough.*

## Arrangement of Business

*Announcement*

11.07 am

**The Deputy Speaker (Lord Lexden) (Con):** My Lords, the Hybrid Sitting of the House will now begin. Some Members are here in the Chamber respecting social distancing, others are participating remotely, but all Members will be treated equally. If the capacity of the Chamber is exceeded, I will immediately adjourn the House.

### NHS Counter Fraud Authority (Establishment, Constitution, and Staff and Other Transfer Provisions) (Amendment) Order 2020

*Motion to Approve*

11.07 am

*Moved by Lord Bethell*

That the draft Order laid before the House on 11 June be approved. *Considered in Grand Committee on 7 September.*

*Motion agreed.*

### Health Protection (Coronavirus, Restrictions) (No. 2) (England) (Amendment) (No. 2) Regulations 2020

*Motion to Approve*

11.08 am

*Moved by Lord Bethell*

That the Regulations laid before the House on 23 July be approved.

*Relevant document: 24th Report from the Secondary Legislation Scrutiny Committee.*

**The Parliamentary Under-Secretary of State, Department of Health and Social Care (Lord Bethell) (Con) [V]:** My Lords, I beg to move that these regulations, originally tabled by my right honourable friend the Secretary of State for Health and Social Care, be approved.

I will start by summarising the changes to the regulations. The Health Protection (Coronavirus, Restrictions) (No.2) England) Regulations, which I will refer to as “the national regulations”, were laid on 4 July. There have been five changes to the national

regulations, the first of which were debated and approved in both Houses before the recess. Today’s debate will focus on the second, third and fourth amendments to those regulations.

The second and third amendments to the national regulations continued to ease business closure restrictions. The second amendment to the national regulations permitted the reopening of businesses and venues from 25 July, including: indoor swimming pools, including water parks; indoor fitness and dance studios; and indoor gyms and sports courts and facilities. Alongside these changes the Government produced supporting guidance advising that the most high-risk activities within those business and venues, such as saunas and steam rooms, should not reopen.

From 15 August the following venues were permitted to open: bowling alleys; indoor skating rinks; indoor play areas, including soft play areas, with several adjustments advised in guidance, such as the closure and removal of ball pits; casinos; and exhibition halls and conference centres, with guidance advising that this is only to enable government-endorsed pilots for the time being.

Alongside those regulatory changes, there was also a series of non-legislative changes to allow close-contact services, including treatments on the face, to resume. These included: allowing socially distanced and outdoor performances to take place; pilots for large crowds in sports stadia and business events; and the relaxation of guidance on wedding and civil partnerships to allow receptions of up to 30 people.

As set out above, these amendments opened businesses and venues that had been required to close, with Covid-secure guidance developed with industry and medical advice to ensure that they opened in a safe way. This has meant that now, nationally, only nightclubs, dancehalls, discotheques, sexual entertainment venues and hostess bars are required to remain closed. These are considered to pose a high risk of transmission due to the close proximity of those attending them.

Regarding the fourth amendment on strengthening enforcement of national regulations, although we were able to successively ease business restrictions over the Summer Recess, we also now better understand how the infection is transmitted and the role of social activity within this. That is why the Government have acted quickly to strengthen the enforcement and restrictiveness of social distancing measures against the backdrop of a slow but steady increase in infection levels nationally.

The fourth amendment to the national regulations, which came into force on 28 August, created a new offence of holding or being involved in the holding of an illegal gathering of more than 30 people, giving the police the power to issue a fixed penalty notice of £10,000 to deter the most egregious breaches of social distancing measures.

I want to say a word about the justification for using emergency powers and give an explanation of how decisions are made. We have needed to use the emergency powers to amend these regulations so that we can respond quickly to the serious and imminent threat to public health posed by coronavirus. I know that these national regulations have caused disruption

[LORD BETHELL]

to people's lives by placing restrictions on who they can see, what they can do and where they can work. Just as the Secretary of State has a legal obligation to protect public health, he is obliged to ease restrictions as soon as it is safe to do so.

The Government continue to pay close attention to the measures, assessing them to ensure that they continue to be necessary and proportionate. These regulations set out that a review of these restrictions must take place within 28 days. However, the Secretary of State for Health keeps their necessity under constant consideration between these formal review points. The question to be considered is whether the "restrictions and requirements" contained within the regulations remain necessary for the public health purposes of the regulations.

Each restriction must be judged by reference to its continuing necessity as the crisis develops, and be based on the available information, at each stage, about the effectiveness and impact of the measures. We use the best available science, along with consideration of the most up-to-date data available at the time to inform decisions. Central to this continues to be a robust assessment of the rate of transmission and infection. However, this Government have also undertaken significant wider analysis and evaluation of the national regulations, including consideration of economic impacts, the level of compliance with the measures, the amount of enforcement needed and impacts felt by local authorities. Understanding the full impacts of these regulations is key to continuing to improve our approach to controlling the virus. This shows the Government's commitment to ensure that restrictions are in place only for as long as necessary, and the evolution in our understanding and approach to tackling the virus.

Perhaps I may say a word about local restrictions. Over the Summer Recess we have combined tightening restrictions in areas with outbreaks with the easing of business restrictions nationally. As welcomed in the debate just a few weeks ago, we have given local authorities powers to act quickly in response to local outbreaks by closing specific premises, shutting public outdoor spaces and cancelling events. We want to build on this trusted partnership with local government so that we can have a more targeted and localised response to any future outbreaks. We asked all councils to develop dedicated local outbreak plans. We gave councils £300 million in new funding to support this and published the Contain framework, providing further guidance on managing local outbreaks.

Where regulations have been required, the Government have worked with local partners to develop tailored and proportionate restrictions based on the best scientific evidence available, varying from a single factory to an entire region. These interventions have been underpinned by scientific evidence—[*Inaudible*—]—to analyse this local data and provide the scientific advice—

**Baroness Penn (Con):** My Lords, we have a problem with the connection. I suggest that we adjourn for five minutes.

11.17 am

*Sitting suspended.*

11.22 am

**The Deputy Speaker (Lord Lexden) (Con):** My Lords, I call on the noble Lord, Lord Bethell, to resume his speech.

**Lord Bethell (Con) [V]:** My Lords, may I say something about local restrictions? [*Connection lost.*]

**Baroness Penn (Con):** My Lords, with your permission, I shall complete—

**Lord Bethell (Con) [V]:** My Lords, may I say something about local restrictions?

Over the Summer Recess, we have combined tightening restrictions in areas with outbreaks with the easing of business restrictions. [*Connection lost.*]

**Baroness Penn (Con):** My Lords, with your permission, I shall complete the Minister's opening speech. May I say something about local restrictions? [*Laughter.*]

Over the Summer Recess, we have combined tightening restrictions in areas with outbreaks with the easing of business restrictions nationally. We have given local authorities powers to act in response to local outbreaks by closing specific premises, shutting public outdoor spaces and cancelling events.

We asked all councils to develop dedicated local outbreak plans, gave them £300 million of new funding to support this and published the contain framework, providing further guidance on managing local outbreaks. Where regulations have been required, the Government have worked with local partners to develop tailored and proportionate restrictions based on the best scientific evidence available, varying from a single factory to an entire region such as the north of England. These interventions have been underpinned by scientific advice and local data provided by a combination of Public Health England, the joint biosecurity centre and NHS Test and Trace.

On Monday 14 September, noble Lords will have seen the rule of six come into effect. This change brought the gathering policy from guidance into regulation, mandating that people can gather only in groups of six. This applies both indoors and outdoors. Single households or support bubbles of more than six are still able to gather, and there are a small number of exceptions, such as for work, schools, weddings and organised sports activities. As the Prime Minister announced last week, these measures are not a second national lockdown but are aimed at preventing the need for one.

It is thanks to the public and their continued effort that we have been able to slow the spread of the virus and start cautiously to return to life as normal. Although time has passed since the peak we saw in the spring, the threat posed by the virus has not gone away. Now, with winter approaching, we will keep doing whatever it takes to keep it under control. I am grateful to noble Lords for their valuable contributions to these debates and for continuing to challenge us to do better in this vital area of public policy.

I believe that we have met the bar set for us in these debates. These regulations are a proportionate and necessary use of the powers that Parliament has asked us to use. I commend them to the House.

11.25 am

**Baroness Donaghy (Lab):** I thank the Minister and the noble Baroness for the statement and understand that we are playing catch-up here. We have two minutes for life and death issues. That means that I shall have to focus on two questions. First, why has COBRA not met since 10 May? Secondly, what are the Government doing to create a testing and quarantine procedure at airports that is effective and will help our economy?

The Minister said that the Government would strain every sinew to give NHS emergency wards and care homes what they need. I believe he is sincere. However, the impression given is of a Government responding to the latest daily crisis, making impossible promises and failing to deliver. Regular meetings of COBRA, where strategy and resources can be discussed, with clear decision-making and communication, might just improve government competence.

Of course, the Government have to prioritise, but the effect on travel and the failure to adopt an appropriate quarantine policy is catastrophic for the economy. Months ago, an official SAGE report showed that testing of passengers on arrival at airports and then five days later would detect 85% of those infected. We need trade deals and we need our air transport. According to IATA, we will lose our place as the third-biggest global market unless we solve the testing and quarantine issue. One journalist compared the efficiency of the system at Keflavik Airport in Iceland with that of the UK, which he said felt “haphazard, inefficient and negligent”. When will the Government save airports and promote trade?

11.27 am

**Lord Scriven (LD) [V]:** My Lords, I declare my interest as a vice-president of the Local Government Association. The Government need to understand that these regulations are working only in a very specific and limited way. I say that as any rational person watching this debate will not understand the logic of Parliament discussing the opening of parts of the economy and the rule of 30 when in the real world discussions and actions of government are about the rule of six, local lockdowns, the lack of effective test and trace, and the possibility of a two-week circuit break. It is a waste of time in the fight against the virus; it is potentially confusing to those who see or hear these debates, and it makes a total mockery of the need for sharp and effective parliamentary scrutiny of legislation and policies to help save lives and livelihoods.

The Whitehall ministerial pen that flows so freely for emergency legislation is now becoming less effective when it comes to releasing local lockdowns, as different areas have different R rates and need a much more flexible approach. Whitehall does not always know best. Today we hear that in Yorkshire the city of Leeds asked for one very limited restriction to deal with the virus, but the Government said no, as they did not think that it could work or would be best for that area. Why was this the case?

We now require a Bill that should place proper delegated powers with local areas and not diktats from Whitehall that rely solely on emergency regulations. Of course, these regulations will go through today, but I now urge the Minister and the Government to bring

forward proper legislation to deal with lockdowns and local restrictions and their lifting, and not to rely on this kind of farcical and retrospective debate.

11.29 am

**Lord Moynihan (Con):** My Lords, I intend to focus my remarks on the exemptions made in paragraph (4)(b) in Regulation 5B in Part 2 of Statutory Instrument 2020/907, where

“the relevant gathering is necessary for the training of or competition between elite sportspersons”.

While this is welcome, many sports event organisers are in the dark and unable to fully prepare for the impact of the restrictions and readily work out what they can, and cannot, lawfully do. If the idea of the more recently introduced rule of six as applied to elite sport was to simplify the law for the general public, does my noble friend accept that recent announcements regarding grouse shooting and polo imply that any recognised sport or recreation can be exempt, whether or not elite?

There was an announcement under the rule of six that sports gatherings for people who are not elite sportspersons to

“take part in any sport or other fitness related activity”

are also exempt from the gathering limits, provided they are run by businesses or other organisations and operate Covid-safe protocols. Can my noble friend confirm that any such gathering can now be exempt over and above elite sportsmen and women, providing they are run by a business, in its widest legal definition?

Are the Government comfortable with the word “elite” in this legislative context of sport? Many sports and pastimes are now rapidly looking to rebrand themselves as elite—currently the only level of competition allowed to resume save behind the closed doors of defined places, including schools. Is there a clear definition between playing sports formally and informally? If so, it would be useful to understand it. Am I right in understanding that, while formal training with a football team, for example, is permitted, a social kick-about in the park with more than five friends is not, unless it is run by a business or a self-appointed sporting body?

Recreation is critically important in times of local lockdowns, and we need legislative clarity where sport and recreation are concerned.

11.31 am

**Baroness Hayman (CB):** My Lords, like others, I find playing the game of legislative scrutiny catch-up unsatisfying and less than we should be doing as parliamentarians. I address my remarks to the rule of six, which was mentioned at the end of the Minister’s speech, and to one specific provision: the decision, in England, to include primary school-aged children in the total of people allowed in the gathering of six.

The other countries of the UK have taken a very different position on this issue. It is clear that young children are not at serious risk themselves. Equally, the evidence suggests that they do not pose a substantial risk of transmitting the virus to others. In any case, the children who will be caught by these regulations are already, in almost every case, members of families that are included in the total of six. So if I am no longer able to meet my son, daughter-in-law and their three children

[BARONESS HAYMAN]

together, I can exclude one of the twins, perhaps, from that gathering to comply with the law. However, if I and my husband meet my four individual sons, themselves heads of households, that will not be illegal, but the risk of that is infinitely greater than the risk of including children.

I understand that this has been done in the interests of simplicity and clarity, but we have also to act in the interests of logic and common sense. I hope that the Minister will assure me that we will monitor the effects in the other countries of the UK and change if necessary.

**The Deputy Speaker (Lord Lexden) (Con):** My Lords, I call the next speaker, the noble Lord, Lord McCrea of Magherafelt and Cookstown. No? I call the next speaker, the noble Lord, Lord Cormack.

11.33 am

**Lord Cormack (Con) [V]:** My Lords, I entirely agree with the points made by the noble Baroness, Lady Hayman, but I want to concentrate my remarks on this very unsatisfactory way of dealing with these great issues. We have heard this morning that it really is essential that the Minister presenting this should be at the Dispatch Box, so that everybody can see and hear him or her. But this is not a debate—it is a series of short statements that cannot be challenged. There can be no opportunity to question the Minister. The whole thing is unsatisfactory. We are suffering from government by fiat. We have to get this right.

This is the gravest crisis to grip our country since the Second World War. It is going on and on, and we need to have a proper debate on the role of government and what should be done to try to get away from this retrospective legislation, which is already out of date by the time we debate it. This will not do. I ask that we have a full day of debate, as soon as possible, on the pandemic, and I would like to follow it by another full day's debate on the malign influence of Mr Dominic Cummings and special advisers. Ministers are accountable, but special advisers have been elected by no one to anything and are not accountable to anybody. They should not have such a great influence on the Government of our country.

11.35 am

**Baroness Wheatcroft (Non-Afl) [V]:** My Lords, I echo the remarks of noble Lords who queried the point of having such retrospective debates. Many of the public, who already feel confused, would be even more confused if they were to listen to our activities this morning. And is it surprising that the public is confused, given the contradictory nature of the rules that currently cause confusion in the country? The noble Baroness, Lady Hayman, pointed towards the illogicality of the rule of six and how it will impact on families. I do not doubt that, before very long, the Government will decide that children under the age of 10, 11 or 12 no longer should be counted in that number. Meanwhile, untold agonies are being caused to families as planned celebrations and family gatherings have to be abandoned.

There is also confusion over the ruling on wearing masks. Why is it obligatory to wear a mask in a library or a public reading room, yet people are supposed to

go into offices free of masks? It is not surprising that people are not rushing back to work in offices when they feel unclear about what is safe. Perhaps I could also query the logic in allowing gyms to open and not insist on those who use them wearing masks. If ever there was an environment, no matter how hard the operators try, in which this deadly virus could be passed around, it seems to me that a gym—an indoor space in which people are exercising hard—must be one of the most vulnerable.

11.37 am

**Baroness Neville-Rolfe (Con):** My Lords, I rise to welcome in principle SIs 788 and 863 on opening up leisure facilities such as swimming pools, casinos, skating rinks, conference centres and so on. But one important point that I wish to echo is that it is a pity that it has taken so long to consider these important matters.

I regret SI 907 and its restrictions on gatherings of more than 30 with fixed penalties, including a gargantuan fine of £10,000. Even more concerning, as the noble Baroness, Lady Hayman, has explained, is the subsequent SI imposing a rule of six on gatherings inside and outside. This will no doubt also be backed up by big fines and will steal half-term and Christmas from many, notably larger, families across our country.

These are examples of controls being brought in without proper parliamentary scrutiny or stakeholder consultation, as my noble friend Lord Cormack has said so eloquently. They are three of a huge pile of regulations, most of them valid for six months. I disagree with the approach reflected in SI 907 and the later rule of six one. These SIs will have major adverse effects on the economy and on treatment for other fatal diseases, at least until we have a vaccine—and that may take a very long time. When will the Government develop a new and more thoughtful strategy, which encompasses a degree of protection for those most at risk while restoring to others the possibility of an economic and social life that makes life worth living? Killing the economy, when so few people are likely to die now that treatments have improved, consigns our children and grandchildren to a needlessly bleak future.

This is a time of national emergency, and the Government need to step up to the mark.

11.39 am

**Baroness Walmsley (LD) [V]:** My Lords, yet again the Government are using this House as a rubber stamp. This is not what should be happening in a democracy. Despite repeated insistence from government Ministers that this will not become routine practice, it has become precisely that. All these regulations remove citizens' rights and freedoms, so it is essential that parliamentarians can question them. For example, how many fines have been imposed on organisers of peaceful protests of more than 30? What criteria are used to determine whether the organising body is a political one and therefore exempt?

These regulations were laid only one or two days before they came into force, giving the public and business owners little chance to understand and prepare for them, and they have now been superseded. Is it any wonder that people are confused?

I want to ask the Minister about an aspect of the messaging that came up in evidence to the Lords Science and Technology Select Committee on Tuesday. It is clear that a proportion of people who have had the virus continue to have serious health issues long after the initial infection is over. These include chronic fatigue, damage to lungs, heart, kidneys, liver and central nervous system, as well as mental health issues. Yet the impression has been given, especially to young people, that patients might feel unwell for a couple of days or weeks, or maybe not at all, and then they will become immune. That is not the end of it for many people. Will the Government change their messaging to emphasise that this virus can have serious long-term effects with which the NHS will struggle to cope? What preparation is being made to allow the NHS to cope with long Covid?

11.41 am

**Lord Dubs (Lab) [V]:** My Lords, it is, of course, unsatisfactory that we are debating these regulations some time after they have come into effect. The Government may say that there is no alternative. We are sometimes giving venues too little notice to take advantage of any relaxation. My key point is lack of clarity. If we want public support for what we are doing—and it will not work without it—then the public have to understand what is happening and why. I talk to people and they do not know. Sometimes they ask my advice and I am not an expert on this at all. Unless we are clear, the public will not respond, and we cannot expect them to. That is a big gap in what the Government are doing.

Next, we are being unfair to the police. Things change very quickly, and the police are being asked to operate in the most difficult circumstances, when there is a lack of knowledge and sympathy for what they are trying to do. We are putting a totally unreasonable burden on the police and we should not be asking them to do it. If we had a bit more clarity, the police might be able to respond better. It is hard to know how people should behave. I have been told of occasions when people were sitting on trains without wearing masks, but the train staff said nothing. It is not only the police; other officials are being put in a very difficult position. They do not want to have a bust-up or a row, so I urge that we be much clearer.

Lastly, it is not at all clear when the rule of 30 applies and when the rule of six. I would welcome some clarity from the Minister on that.

11.43 am

**Baroness Noakes (Con):** My Lords, I will make three points. First, neither the regulations before us nor the original provisions being amended have had an impact assessment or been underpinned by any similar analysis. We only ever get a single view—the Government's—on the coronavirus impacts but never an analysis of the impacts on the NHS beyond the virus, or a considered view of the economic impact, and we certainly never get anything on the wider societal impacts of the Government's actions. Crucially, we never get an analysis of alternatives. This is arrogant and undermines parliamentary accountability.

Secondly, while the original regulations might have justified the made-affirmative procedure on the grounds of a serious and imminent threat to public health, it is perfectly ludicrous to suggest that the regulations which relax the restrictions are urgent on health grounds. This is an abuse of the statutory power in order to bypass normal parliamentary processes.

Lastly, the rules restricting gatherings are profoundly illiberal. I welcome anything which will stop disruption such as that caused by Extinction Rebellion, but the rules introduced by the regulations have a chilling effect on the type of society I thought I lived in. We now have the crazy rule of six, which several noble Lords have already referred to. I am grateful to my noble friend Lord Lamont for tabling his motion to decline approval of that provision, and I look forward to a fuller debate on the extent to which society will allow the Government to interfere in the ordinary lives of citizens.

11.45 am

**Lord Loomba (CB) [V]:** My Lords, I recognise the pressures facing the Government as we play catch-up with the virus, but these regulations were out of date even on the day they were being scrutinised in the other place. That day, the rule of six superseded the rule limiting gatherings of people to a maximum of 30. Some areas were under even more restrictive local measures. No one doubts the necessity of dynamic action to curtail the virus and the importance of this type of legislation, but we need to look at faster ways of getting it through the parliamentary process. We have seen just how fast changes can be implemented to long-established norms, such as the introduction of the furlough scheme and, even in this place, the Hybrid House and the voting app. We should look at a new parliamentary procedure mechanism to fast-track statutory instruments such as these, so that we can uphold our constitutional responsibilities. I echo the sentiments of the noble Lord, Lord Cormack.

11.46 am

**Lord Mann (Non-Aff):** My Lords, I do not envy the Government the range of advice they get minute by minute from experts everywhere. It must be difficult to reach conclusions from that.

I want to raise an issue that does not seem to have been discussed much in the last three or four months: how different Sweden's policy is. Have the Government used the UK model to examine what the rate of infection and mortality in Sweden ought to be by now? The presumption is that it would be much higher than in this country, and in other European countries which have followed a similar approach. However, my own rough calculations suggest that it is actually lower in Sweden. That begs a big question about the approach taken in Sweden, where all the over-70s have been advised—pressured—to self-isolate but the rest of society has tended to operate in a much more normal way than in the rest of Europe. There are things we could learn from that. We certainly need to be able to answer that question.

A second pressing issue arises from what may well happen in Sweden, where it gets darker much earlier. Our lockdowns and the big wave of the virus happened

[LORD MANN]

as we came into warm weather in the spring, when every day was getting longer. The public mood was much easier then than it will be going into winter, when every day it gets darker earlier. The effect on children, in particular, will be quite different when people do not want to use gardens or open spaces, even if they are allowed to, because of the darkness and the weather. I hope the Government will look at this issue.

11.48 am

**Lord McColl of Dulwich (Con) [V]:** My Lords, these regulations seem reasonable to me, given the need to adapt quickly to control this ever-changing pandemic, the details of which we know so little about. As the last speaker said, Sweden is managing very well indeed; we need to learn from everyone. The restrictions on the size of gatherings seem sensible, as are the exemptions. Inconvenient as they are, we must abide by them, especially as we see the rapid increase in the virus in the north of England.

As a doctor, I am of course very concerned about preventive medicine, and I would like to say a few words about that. Early on in the pandemic, it was clear that the majority of those afflicted had many medical conditions that made them much more vulnerable to Covid. Obesity and Covid is a very dangerous combination, because obesity impairs the immune system. The reason for the high mortality in the UK is that the majority of people are obese, the population is the densest in Europe and, moreover, the UK is the travel hub of Europe.

Blaming the Government for the high mortality is, therefore, one of the most despicable allegations that I have heard in this pandemic. That kind of propaganda simply demoralises the public. Keir Starmer has said that he wants to help the Government fight the pandemic; does the Minister agree that, if he really wants to help the British people, Keir Starmer should join the Prime Minister's campaign to reduce obesity now in order to reduce the mortality in future pandemics?

11.51 am

**Baroness Ludford (LD):** My Lords, getting the (Amendment) (No. 2) and (Amendment) (No. 3) regulations is somewhat academic, since the (Amendment) (No. 4) regulations came into force at one minute past midnight last Monday morning. There are various illogicalities and serious constraints on human rights in all these regulations and I look forward to the fairly imminent report from the Joint Committee on Human Rights, of which I am a member.

Our Secondary Legislation Scrutiny Committee commented in its 19th and 24th reports on the problems caused by regulations being laid less than 12 hours before they came into effect. In the case of the (Amendment) (No. 4) regulations, they were published only about 12 minutes before they came into effect—at, as I say, one minute past midnight. Can the Minister confirm my understanding that they were laid only after they came into effect?

I welcome the fact that, finally, the guidance and the law coincide. I believe that the Government's language in the last six months has created a lot of confusion,

including for the police. They have used the term “must” about both law and advice. I imagine this was because Mr Johnson was coy about the “nanny state”, but the obfuscation was very unhelpful. It would have been much better to say, “This is what you must do, because it is enforceable law, and this is what you should do, because it is your civic responsibility to show respect and care for your fellow citizens.”

It is my belief that the overwhelming majority of people would respond to such clarity by following both law and guidance if they diverge. Better, though, to bring the two together, which I believe the (Amendment) (No. 4) regulations finally do. Why has it taken six months for the Government to do that?

Lastly, I observe that, on the Tube in the last couple of weeks, I have observed almost 100% observance of the requirement for a face covering. I attribute this to the clarity of the requirement and to the fact that Londoners are law-abiding and care about their city. As internationalists and majority remainers, they were once labelled “citizens of nowhere” by a former Prime Minister. I am glad to say that Londoners have demonstrated that they are very much citizens of somewhere.

11.53 am

**Lord Bourne of Aberystwyth (Con) [V]:** My Lords, I very much regret the retrospective nature of this debate. It is sad, but it reflects an all too cavalier attitude to the law that seems to permeate thinking at present and needs to stop.

These regulations indeed seem out of date. The memorandum refers to a falling rate of transmission, which it is not; a falling rate of hospitalisation, which it is not; and a falling rate of fatalities: alas, that is not the case. What we really need is some clear strategic thinking, which is absent. I very much agree with the noble Baroness, Lady Donaghy, about the importance of Cobra and some strategic thinking behind our whole approach to this disease. That seems lacking. As many noble Lords have said, we also need more parliamentary scrutiny and proper involvement of both Houses in the way that the approach develops. The Government really need to start grappling with these points. Perhaps I might ask my noble friend the Minister what has happened to the review that is supposed to happen every 28 days. Indeed, I think two reviews are probably due by now.

I welcome the localism approach, which is something that should be extended. People trust their locality; it is familial. They trust their neighbours, they trust local community groups and charities, and often they trust their local authority to have a better handle on what is happening—so that is clearly needed. But I part company with the Minister when he talks about a slow, steady increase in infections. It is more than that—it is inexorable, and we need to begin to grapple with this with a strategic approach and proper parliamentary scrutiny.

11.55 am

**Baroness Uddin (Non-Aff):** My Lords, it is a pleasure to follow the noble Lord, Lord Bourne, and I agree with him in entirety.



Approval for retrospective regulations does not bode well for the mother of Parliaments when some 10 million people, including 2 million in the north-east, are facing lockdowns. Multigenerational and extended families cannot meet in homes or gardens as before, but we can group in pubs and restaurants. Most people I have spoken to have said that this is confusing and does not make sense at all, given that children have returned to school, where thousands—including teachers—are waiting for testing. We are also about to experience the consequences of 500,000 university students returning.

I acknowledge the extreme pressures that the Government are managing, but it does not allay the fears and confusion of the ordinary public when they witness conflict between the Chief Scientific Adviser warning us to plan ahead and those responsible for planning pronouncing that demands could not have been foreseen. This is not acceptable. Clarity of leadership is absolutely critical to garner public compliance and even respect for these many necessary restrictions, particularly to tackle the danger of by many younger people not adhering to social distancing and the wearing of masks.

I am at one with the noble Baroness, Lady Hayman, in asking the Government to review counting children in the current cluster of six.

Finally, how are the Government ensuring a robust plan to protect care homes from further unnecessary fatalities in the upcoming months and also to avoid at all costs any disproportionate impact on those from minority ethnic backgrounds with different conditions, including poor housing, and poor-quality health and social care? We have all known about it and have been warning the Government constantly about it, but I have not heard one iota of response, which I find totally abhorrent.

11.58 am

**Baroness Altmann (Con):** My Lords, I regret that these regulations are necessary and urge the Government to consider their approach. In justifying emergency powers a few months ago, Parliament accepted that this was meant to be exceptional and was necessary for public health.

Subsequently, however, enforcement has been strengthened, yet it remains the case that the various iterations of the lockdown have never been in place with full parliamentary approval. Not only has Parliament not been engaged in scrutinising these new laws, members of the public and the police have been given little chance to see and understand the new laws they are subject to. Every subsequent amendment has entailed parliamentary scrutiny being delayed and devalued. Despite repeated insistence from Ministers that this will not become routine practice, it has become precisely that.

We are supposed to be easing measures as soon as it is safe for public health to do so, but can my noble friend explain this concept of public health, which seems to have been interpreted strangely in the narrow manner of risk of catching one illness? Can he explain why the focus seems to be wholly on this one risk, when the number of deaths from other illnesses may be higher than those from Covid-19? If scientists are

asked to assess the risk of this one virus, given how new it is, their risk/reward equation is bound to lead them to advise against opening up, easing restrictions or mingling. Even if they are wrong, they can claim success. It is important, therefore, to bear in mind the other elements of public health involved in these draconian measures.

Noon

**Lord Liddle (Lab) [V]:** My Lords, I do not know why we are having this debate. These regulations have been in force for some time, and nothing we say today will alter that. What is more, the Covid situation has changed drastically since they were first introduced. I think the debates demonstrate the farce, frankly, of Parliament's present role. Parliamentary accountability is an essential part of democracy. Decision-making by Governments is improved as a result of debate. The point of opposition is not just to score points, however legitimate, against one's political opponents; it is to expose arguments and debates that lead, ultimately, to better decisions. In the Covid crisis, the system of parliamentary accountability is letting the country down. It is no good having debates after the Government have made up their mind—after policies have been announced and regulations drafted, laid and put into effect. We need a radically reformed system of prior parliamentary consultation and full debate. We particularly need it because of the loss of public confidence in government over Covid.

We pride ourselves in this country on being the mother of Parliaments, but we are now an elderly parent who may still have great wisdom but has lost control, not just of the power of decision but of the power of effective influence. The European Parliament and German Bundestag would not allow themselves to be put in this position by the Executive. This is a question of fundamental importance: how do we rebuild the confidence in our political system that the erratic behaviour of the present Government is badly eroding? It is time to call a halt and we can easily do this.

12.02 pm

**Lord Singh of Wimbledon (CB) [V]:** As we have heard this morning, these regulations are complex and, at times, confusing. I believe that much more should be done to greatly increase public awareness of the dangers of this painful killer disease. I am particularly concerned about the rising incidence in areas with large subcontinental populations, such as Leicester, Sandwell, the north-east and now Lancashire. Here, because of genetic factors, many carry a greater than average risk. Many are not avid listeners to or viewers of the BBC but regularly watch dedicated TV channels catering for them. Will the Minister use these to create greater awareness in this part of our community, which is at greater than average risk?

12.03 pm

**Lord Naseby (Con) [V]:** My Lords, I declare an interest in that my wife and eldest son are doctors, and for 12 years I led on health matters on the Public Accounts Committee. I have some practical questions. Why, in the sporting world, are we continually seeing pilots cancelled? The purpose of a pilot is to find out

[LORD NASEBY]

what happens. Why are there not testing centres in every major hospital so that our hospital staff can get priority? Why are the inspectors of care homes not required to have had tests? Why are care homes never given priority? The result is that, if staff have a test on a Monday or Tuesday, they do not get the result until they have to do another test. Why continue to promote, through advertising this week on the radio, that people should go for a test? Why boast that we have the most testing in Europe when we do not have sufficient testing ability underneath to qualify? Why did nobody think about modelling the schools and universities properly? And why, after Leicester, did we not go straightaway to a model for the inner towns of our country, with terraced housing? Why on earth have a major overhaul of Public Health England in the middle of the biggest pandemic we have seen in our lifetime?

12.05 pm

**Lord Greaves (LD):** My Lords, I am a member of Pendle Borough Council and I have to say that I consider today's proceedings something of a farce. If my council ran proceedings like this, the Government would come and close us down. Nevertheless, it is one of the councils in the country and in Lancashire that is trying to get a grip. I have not been directly involved, but local people are very disappointed by the Government, who they see beset by general chaos—a shambles day by day, with confusing and confused messages as far as they can see. We have to cope with national rules, Lancashire-wide rules, borough-wide rules and even rules that apply to particular wards. How people are supposed to understand all these different rules for different places is not clear to me. An inordinate amount of time is spent understanding and publicising the rules and then negotiating with the various levels and the confusion of bodies.

This is a process that takes place every week. At the beginning of the week, the local task force starts looking at what should be done with the next round of changes that the Government want to make at the end of the week; then it goes to various county-level bodies. I have not got my mind around the number of different county-level bodies involved, and what their responsibilities are, but there is something called Silver that seems very important—I am not quite sure who is on Silver, but there it is—then it goes to national level, to Gold. I asked, “What is Gold?” and was told, “Oh, it's Matt Hancock”. All I said was, “All that glitters is not gold”.

We used to be top of the league; we have got it down now, so we are going down, but the Government have pulled the plug on everything we are trying to do.

12.07 pm

**Baroness Bennett of Manor Castle (GP) [V]:** My Lords, it seems that this House will be spending our Fridays far into the future debating new government diktats after the fact, producing outcomes that, as the noble Lord, Lord Scriven, said, could be seen as farcical, a view that many other noble Lords have reflected. Is centralised decision-making the right approach, even putting aside the democratic concerns? The situation

in different parts of England is fast-moving and the economic, geographic and demographic make-up of different regions, cities, rural areas, et cetera, is very varied.

While we in your Lordships' House spend much of our lives glued to news feeds, most people do not, and the general state of the nation is confusion. Have the Government considered instead creating a clear framework of levels of lockdown—as, for example, was done from the start in New Zealand—providing practical, straightforward guidance about personal risk reduction, as the noble Baroness, Lady Ludford, suggested, and then leaving it to the local authorities to decide, day to day, how to implement and communicate them, guided by local health officials given appropriate resources? That would be a radical change from our usual centralised decision-making—taking back local control—but would be a move, I suggest, to a new and more thoughtful strategy, as the noble Baroness, Lady Neville-Rolfe, said. At the same time, given the excellent results from local test and trace, why not give the entire responsibility for that to local teams, provided with the appropriate resources?

My second question concerns the limits on family gatherings—the rule of six—and, in particular, its impact on childcare. Have the Government assessed the impact on NHS workers and other essential workers with younger children or children home from school? Have they made an estimate of the numbers affected? If so, will the Minister inform the House of that, either today or by letter? This is a limited but terribly important impact assessment, although provision of the broader types of impact assessment, referred to by the noble Baroness, Lady Noakes, would be extremely welcome.

12.09 pm

**Lord Forsyth of Drumlean (Con) [V]:** My Lords, we are witnessing the strange death of parliamentary democracy in this country. There is no other way to describe the charade in which we are involved today. Many of these regulations, as so many colleagues have pointed out, have long since taken effect. What are we meant to do? This is government by press release; in some cases, as pointed out by the noble Baroness, Lady Ludford, the regulations had taken effect even before they were laid. Why are we not discussing the rule of six regulations today? That is the issue of the day—why are we not discussing it? Why do we not even know the date on which they will happen?

Why do we have a Minister who does not even have the courtesy to turn up to the House to deal with these important regulations and who does not answer questions? We had a Statement earlier this week; I asked why the rules were different in Scotland and in England and what it was about English children that made them more likely to be a risk. My noble friend the Minister said in his reply that

“we celebrate the differences between our two nations in this.”—*[Official Report, 14/9/20; col. 1006.]*

I do not celebrate the differences which mean that I cannot visit my grandchildren in London, but they could get in a taxi, on the Tube, or on a plane or a train and come to Scotland perfectly legally. How do you explain that to people? What prevents the Government

getting together the various Chief Medical Officers from the devolved regions, agreeing a common policy and implementing it, if it is all supposed to be based on scientific evidence?

Furthermore, when asked difficult questions such as the one from the noble Lord, Lord Taylor, who asked a very reasonable question about his family, the Minister replied:

“that is the pub-quiz question of all pub-quiz questions”—[*Official Report*, 14/9/20; col. 1004.]

and referred him to the regulations. There is no accountability for what the Government are doing. Parliament is being bypassed. We are not in a position to debate these regulations; we cannot intervene in speeches; it is absolutely unsatisfactory and needs to be put right.

12.11 pm

**Lord Bhatia (Non-Aff) [V]:** My Lords, these SIs give local authorities powers relating to the control and prevention of coronavirus. They require approval from both Houses. They came into force on 18 July 2020, but if they are not approved by the House of Lords they will cease to apply. These are important powers to control the spread of coronavirus. In these difficult times, it is important to give powers to local authorities to close down certain properties such as bars, restaurants and shops. We have witnessed various flare-ups of the pandemic in towns, and the powers given to local authorities have helped close premises before it spreads further.

Communities and local government work together and help ensure that people wear masks, keep social distancing and regularly wash their hands. Local authorities must have powers to fine individuals and premises which do not conform to the regulations. Repeated breaking of the regulations should involve heavy fines and perhaps imprisonment. We must realise that such powers will be for the safety of public health. These powers are fair and proportionate in the present circumstances. I trust that both Houses will ensure that politics does not interfere with these regulations. Lives can be lost in these difficult times.

12.13 pm

**Baroness Jolly (LD):** My Lords, as I expected, this has been a fascinating debate. I have drawn the short straw and will wind up; unfortunately, my noble friend Lady Brinton is still not well enough to join us, but I sincerely hope she will be back in her place soon. I am also sorry that the Minister is not in his place. I hope he is not unwell. It is not always helpful to have a Minister with dodgy connections—

**Noble Lords:** Oh!

**Baroness Jolly (LD):** I shall just carry on.

When I was trying to put together what to say today, I started with the regulations and the Explanatory Notes. They are pretty dense, so I went to Wikipedia—the noble Baroness laughs, but it laid out extremely well and clearly how these three instruments work and fit together. So, there is a tip, because I think we will be doing this a few more times.

These three SIs are all derivatives of SI 684; we debated that on 24 July, but it was actually laid on 3 July—some 10 and a half weeks ago. Everything is so much after the event. I looked back at our debate in *Hansard*; the Minister outlined the key points because we had only a minute each. He was not given the challenge and scrutiny the public deserved. It is the same today. If we have to do this—I understand that we do—we need more time to do it justice.

In that debate, I asked the Minister about the Bournemouth beach crowd. It was topical at the time and, as my home is a notorious area, I really wanted to know the answer. The Minister was not able to give me one, but neither did I get a letter from his office picking up on questions not responded to. I appreciate that many questions are asked in the sort of debate we are having now. The Minister is pushed for time, but his competent and helpful staff should be able to put together a letter to all Peers covering issues raised and not responded to. This could be emailed to participants—possibly not put in the Library at the moment, but maybe both.

To give a bit of the detail, SI 788 allows swimming pools, indoor water parks, indoor fitness and dance studios, indoor gyms and sports courts to reopen. SI 863 allows indoor casinos, skating rinks, play areas, bowling alleys, conference centres and exhibition halls to reopen—perhaps we could have had our party conferences after all. Nightclubs, dance halls, discos, sex venues and hostess bars remain closed. My next point is quite serious—what about bingo halls? For an awful lot of people, bingo is really quite important. They get together and get away; it is a cheap way of having a bit of fun with your friends. I am sure they could be socially distanced, but these regs are silent on bingo.

SI 907 imposes a fixed penalty of £10,000 for gatherings or raves of more than 30 people. I wondered whether you can have a rave with fewer than 30 people—I am sorry the Minister is not here as I know he is the expert on raves. There are geographic restrictions as well, but some expired even before we had the debate. I apologise to the House if I sound grumpy, but debating these regs so long after they are laid is a silly way of doing business.

I have asked the Minister before about how effective a deterrent the fixed penalties are. My noble friend Lady Walmsley asked about fines as well. I would be grateful for an answer to that question. The noble Lord, Lord Hunt of Kings Heath, who is not in his place today, put the whole thing really well at the last airing of SIs. He got grumpy too, and I think we should.

What is bothering the population at large is the testing situation. If we are going to get through this pandemic efficiently, we will need to step up population testing in schools, workplaces, care homes and local drive-in centres. We should also, following on from the noble Baroness, Lady Donaghy, look again at airport testing. Data will help us beat this virus. Ignorance will not.

We are again debating these measures retrospectively. We are in strange times, but we live in a parliamentary democracy. That should not mean we have to accept a loss of parliamentary oversight. The noble Lord, Lord Bourne of Aberystwyth, put it very well: we really need proper parliamentary scrutiny, but this is not it.

12.19 pm

**Baroness Thornton (Lab):** My Lords, when the noble Lord, Lord Forsyth, my noble friend Lord Liddle and many other noble Lords across the House express their frustration in the trenchant way they have done today, the Government really need to listen.

I am particularly struck by the fact that the noble Lord, Lord Lamont, has in his indignation put down a negative Motion against the rule of six, which I think we will discuss in a few weeks' time. It is in the green sheets if noble Lords want to find it—I found it this morning. That must tell the Government that this House really is very dissatisfied and very frustrated. This is not the way that Parliament should be doing its job and we need to find a better way forward.

One noble Lord said that all of these orders were not emergencies, because they were lifting emergencies, so there should have been time—I think it was the noble Baroness who said this—for these to have been discussed pre being put down and taken in an orderly fashion across both Houses of Parliament. We have many of these SIs to go before the end of September, so we are going to get used to each other.

I need to talk about things that are relevant today, before I mention any of the orders that we are actually discussing, because the whole of the UK is much more worried about what is going to happen next. Listening to the news as I was writing my speech, I heard a discussion about whether a circuit breaker will be required across the country: a two-week partial national lockdown. Local restrictions are becoming regional. Coronavirus cases have been doubling every seven to eight days in England, according to the study by Imperial College. The R rate is up, the number of people being hospitalised is growing and care homes, as we know, are in the news again because they are so concerned about what is going to happen. The *Financial Times* reported that one SAGE scientist said that if the R number continued at the same rate it would “break the NHS”.

We warned from these Benches months ago that unless the Government spent the summer fixing the testing regime, we would face a bleak winter. Notwithstanding the remarks of the noble Baroness, Lady Harding, at the Select Committee yesterday, that in her view the test system was not failing, it is ludicrous that a surge in demand was unexpected. The truth is that the Government ignored the advice that a robust test and tracing system was vital when our schools and universities were back and when people went back to work. So could the Minister confirm reports that a two-week national lockdown in October has been proposed by the scientists of SAGE and the Scientific Pandemic Influenza Group on Modelling? Is it true, as my noble friend Lady Donaghy said, that COBRA has not met for several months?

I suppose that we need to turn to these statutory instruments. I echo other noble Lords in asking why we are not seeing any impact assessments at all, on any of these statutory instruments. Surely that must be possible, and it is not respectful of Parliament and accountability that those have not been forthcoming. Not only has Parliament not been engaged in scrutinising these laws, but members of the public and the police

forces have been given little chance to see and understand the new laws they will be subject to, and they are having to learn as they go along. It is regrettable that we are only debating these regulations weeks, and even months, after they came into effect.

Last time we discussed the issue of fines for gathering, I asked the Minister whether the legislation had been used to stop legitimate political protest, which, I said, “this country prides itself on allowing to happen, even in its most bonkers forms”.—[*Official Report*, 3/9/20; col. 485.]

The Minister did not answer this, or any of the numerous questions on where the right to protest currently stands under the health protection regulations, citing a lack of time. How many demonstrations and gatherings have been refused? Who has been fined—we know certain people have been fined—and who is facing criminalisation? If the Minister does not have time to answer these questions today, perhaps he could write to me and put the answer in the Library.

Other noble Lords have very adequately covered the issues about swimming pools and the lateness of the regulations, arriving 24 hours before they were due to be enacted. I think businesses are owed an apology by the Government for being given detailed regulations 24 hours before they come into force. That is not reasonable at all. That includes ice rinks, swimming pools and so on. Now we have the regulations for the rule of six, designed to make the rules easier to understand and follow—but, as other noble Lords have said, that is simply not the case. It is particularly not the case when the four countries are operating these in different ways.

I hope that we will not continue this somewhat arid process, a mockery of the parliamentary process. I hope that when we come to review the emergency legislation, as we are due to do by the end of this month, that will change.

12.25 pm

**Lord Bethell (Con) [V]:** My Lords, this has been a moving and emotional debate. I would like to start, before I go on to my scripted speech, by addressing three key points raised by noble Lords. First, I would like to thank noble Lords for their patience for my not being in the Chamber today, and for, as was described, my “dodgy connections”. I would have liked to be there, and it is my intention to be there in future.

Two themes have been raised time and again, which I would like to address. One is the processing of regulations. Before I talk formally about this, perhaps I may share with the House the fact that decision-making in Government over the last six months has turned on a penny. We have often been in situations where we thought we were going to do one thing at the beginning of a meeting, we have come out of the meeting with new data and new insights, we have made a completely different decision and have had to implement that decision later in the day. This has been extremely tough in many ways, and it has been tough when it comes to scrutiny and bringing regulations in front of the House. I reassure the House that parliamentary scrutiny is valued by the Government, by Ministers and by everyone who brings regulations to the House. It is a massive priority for us that these debates are taken seriously.

Secondly, in response to the many touching personal testimonies of noble Lords during this debate, I say that the individual impacts of these regulations on people in the country are not underestimated by anybody. The stories of grandchildren, parents, split families, the difficulties over childcare and practical matters—these are terrible impacts of this horrible disease. We work extremely hard to try to minimise those impacts, and we try to design the guidelines so that they will have the smallest possible impact. We value enormously the feedback we get from Parliament, from civic groups and from representations, and seek to tweak the guidelines accordingly. I would just like to put those sentiments on the record.

I now turn to the questions posed by noble Lords. My noble friends Lady Neville-Rolfe, Lady Altmann and Lord Forsyth, and the noble Baroness, Lady Hayman, all touched on the frustrations of the public, and I think I have just addressed that. The personal testimony of all of them was extremely moving. I reassure the noble Baronesses, Lady Thornton and Lady Donaghy, and my noble friend Lord Bourne that we do bring the full force of government behind our decision-making. The process of COBRA has given way to the processes of COVID-O and Covid Gold. These are extremely well-managed processes; they are on a weekly roster and have made a huge impact on government.

On parliamentary scrutiny, I completely recognise the concerns of a great many noble Lords, including my noble friend Lord Cormack, the noble Lords, Lord Liddle, Lord Dubs and Lord Scriven, and others. They have all raised concerns about the way in which we are using Section 45R of the Public Health (Control of Disease) Act 1984.

Arrangement of business is a matter for my right honourable friend the Chief Whip and the usual channels. Standing Order 72 prevents us from taking affirmative SIs until the JCSI has reported on them, and that does create delays. Where regulations have to be debated, those debates take place in light of the reports of the JCSI. I reassure my noble friend Lord Bourne of Aberystwyth that regulations are reviewed every 28 days. The first review was on 31 July, the most recent review took place on 28 August and the next one will be on 25 September. I remind the House that Ministers have provided Oral Statements in relation to the introduction of new measures or significant changes, and Written Ministerial Statements following amendments when Parliament is sitting.

The noble Baronesses, Lady Walmsley and Lady Jolly, and my noble friend Lady Neville-Rolfe all asked questions about the £10,000 fine, which is a significant amount that reflects the seriousness of the new offence. I reassure noble Lords that this is an extremely defined offence. It is anticipated that the fines will be small in number but huge in impact. The Metropolitan Police has responded to 1,000 unlicensed events between June and the middle of August. This has created a massive public health threat, which we take seriously. To answer the noble Baroness, Lady Jolly, I had no role in any of these events, but I reassure her that bingo halls have been reopened.

On the economy and Covid-secure guidance, I reassure my noble friends Lady Neville-Rolfe and Lady Noakes, and the noble Baroness, Lady Wheatcroft, that the

Government are committed to lifting the regulations as soon as it is safe to do so, enabling the economy to restart in a way that keeps people safe. Covid-secure guidance has been developed in close collaboration with industry and medical experts to help keep businesses open wherever we possibly can, and at every stage we have looked to support business and people returning to life as normal, but striking a balance between that and public health commitments. We have seen the positive news from the ONS that in July the economy grew by 6.6%, meaning that GDP is now 18.6% higher than the April low.

On the NHS, the noble Baroness, Lady Walmsley, raised an important point about capacity, particularly on caring for those who are experiencing the long-term effects of Covid. We are extremely focused on the effects of long-term Covid, particularly for those who have not displayed symptoms, and the Government are providing an extra £3 billion of funding for the NHS.

The noble Baronesses, Lady Hayman and Lady Uddin, asked about children and the rule of six. We have set up clear and consistent limits on the rule of six for children of any age in any settings. This makes things easier to understand for the public and easier to enforce by the police and public health officials. We will keep this under review but the CMO has been clear that children are unfortunately a vector for infection, and a national outbreak among children would have a profound impact on the whole country.

The noble Baroness, Lady Uddin, and the noble Lord, Lord Singh, asked about the severe impact of the disease among the BAME community. I reassure them that we are doing everything we can to market our public health messages to these communities and research the effects of this disease among them, putting in place the appropriate protections wherever we can.

The noble Baroness, Lady Bennett, raised an important point. I can confirm that there is a legal exemption to the rule of six for the purpose of formal childcare provided by a registered provider and in settings not formally registered that provide wrap-around care, such as school clubs, breakfast clubs and sports clubs, as well as for children's youth clubs. When childcare is provided informally, gathering limits should not be exceeded.

The noble Baroness, Lady Walmsley, asked about the right to protest. I reassure her that we are clear that peaceful protest is a vital part of a democratic society and is a long-standing tradition. She asked who was responsible; those who organise the protests are responsible for them, and it is their responsibility to ensure that they comply. The police's role will be to check that they are complying and to disperse them if they do not. On this, I would be glad to write to the noble Baroness, Lady Thornton, on her detailed questions about fines.

On sport, my noble friends Lord Naseby and Lord Moynihan raised important questions about being able to exercise within the rule of six. There are exemptions for organised sports and licensed physical activities, including 30 exempted sports. Outdoor activity is safer from a transmission perspective and it is often easier to distance, but not all sports can be Covid-compliant.

[LORD BETHELL]

I reassure the noble Baroness, Lady Hayman, that these measures are kept under review, and I understand the tough decisions made by families.

On inconsistencies regarding face coverings in gyms, I can confirm to the noble Baroness, Lady Wheatcroft, that we have mandated the wearing of face coverings in indoor settings, as it is not always possible to maintain social distancing.

This is an extremely fast-moving and changing situation which the Government have moved swiftly on to protect the public health. The state of the infection is changing very quickly, as my noble friend Lord Bourne rightly pointed out. The rate of infection has been affected by the return of school and the return to work, and we can see in countries overseas the impact that has on hospital attendance, ventilation rates and, in some places, on death rates. We are moving quickly to adapt.

I completely understand the frustrations. However, we have seen huge achievements from the implementation of these regulations in tackling the spread of the virus, and these regulations before us today, those we will see later and their predecessors have been a major part of that. Although we have significantly progressed in our fight against the virus, now is not the time for complacency, particularly as we head towards winter and prevalence rates are rising. More regulations will be coming but we will keep under review the way in which those are handled. I beg to move.

*Motion agreed.*

### **Health Protection (Coronavirus, Restrictions) (No. 2) (England) (Amendment) (No. 3) Regulations 2020**

*Motion to Approve*

12.36 pm

*Moved by Lord Bethell*

That the Regulations laid before the House on 14 August be approved.

*Relevant document: 25th Report from the Secondary Legislation Scrutiny Committee.*

*Motion agreed.*

### **Health Protection (Coronavirus) (Restrictions on Holding of Gatherings and Amendment) (England) Regulations 2020**

*Motion to Approve*

12.36 pm

*Moved by Lord Bethell*

That the Regulations laid before the House on 27 August be approved.

*Relevant document: 25th Report from the Secondary Legislation Scrutiny Committee.*

*Motion agreed.*

12.37 pm

*Sitting suspended.*

## **Arrangement of Business**

*Announcement*

12.42 pm

**The Deputy Speaker (Lord Bates) (Con):** My Lords, there are four Motions in the name of the noble Lord, Lord Bethell. The time limit is one and a half hours.

### **Health Protection (Coronavirus, Wearing of Face Coverings in a Relevant Place) (England) Regulations 2020**

*Motion to Approve*

12.43 pm

*Moved by Lord Bethell*

That the Regulations laid before the House on 23 July be approved.

**The Parliamentary Under-Secretary of State, Department of Health and Social Care (Lord Bethell) (Con) [V]:** My Lords, I beg to move that the Health Protection (Coronavirus, Wearing of Face Coverings in a Relevant Place) (England) Regulations 2020 and the three instruments amending those regulations on the Order Paper in the name of my right honourable friend the Secretary of State for Health and Social Care be approved.

These regulations were made by the Secretary of State on 23 July and came into force on 24 July. The Government introduced the regulations to make it mandatory to wear face coverings in some indoor settings, such as shops, supermarkets and indoor transport hubs in England, and we have subsequently amended them to ensure that we continually took the necessary steps to protect public health as lockdown restrictions eased over the summer. Amendments were made on 8 August, 22 August and 28 August accordingly to extend the requirement to wear a face covering to a wider list of indoor settings now open to members of the public, providing clarity on who is exempt, the circumstances in which a face covering is not required and around continuing to ensure the enforcement powers given to police and Transport for London are reasonable and proportionate.

These regulations are helping to save lives. They are exceptional measures, brought forward to mitigate the unprecedented impact of the Covid-19 pandemic, and comply with all the Government's obligations in relation to human rights. I urge the Chamber to approve these regulations and the amending regulations so that we may continue to use these powers to protect the public.

The people in this country have played and continue to play a vital role in helping us in our national effort to beat coronavirus. We therefore introduced these regulations to give members of the public the confidence to visit public indoor spaces safely and enhance protections for those working in these settings. This was explained by the Secretary of State when he addressed Parliament on 14 July and announced these measures, and reiterated this week by my ministerial colleague, the honourable Nadine Dorries, in the other place.

Since 24 July it has been mandatory to wear a face covering in indoor places such as shops, supermarkets and enclosed shopping centres. We have received positive

support from the retail sector, including the chief executive of the British Retail Consortium, who has said that face coverings can

“make shoppers feel even more confident about returning to the High Street.”

Additionally, the chair of the Federation of Small Businesses has said:

“As mandatory face coverings are introduced, small firms know that they have a part to play in the nation’s recovery both physically and financially, and I’m sure this will be welcomed by them.”

The Government continue to review and refine their advice on face coverings, informed by the latest scientific evidence. Prior to these regulations, the Government had already been encouraging the public to wear face coverings in enclosed spaces where they may find it difficult to maintain social distance and come into contact with others they would not usually meet. Furthermore, face coverings have been mandatory on public transport in England since 15 June. While face coverings are not a substitute for social distancing and good hand hygiene, the scientific evidence suggests that when used correctly, face coverings may have some benefit in reducing the likelihood of those with the infection passing it on to others, particularly if they are asymptomatic.

As further sections of the economy have reopened and more people have been returning to work, we have amended the scope of the regulations to cover an extended list of indoor public settings such as museums, galleries and places of worship. Additional amendments aimed to provide further clarity to members of the public on where face coverings would be required, who is exempt and the circumstances which may constitute a reasonable excuse. The regulations have also been amended to help deter repeat offenders across public transport and indoor settings. Similar measures have been introduced across the UK with the requirement to wear face coverings in shops, other indoor premises and on public transport—and internationally in countries such as France, Germany and Spain, to name a few.

I will now outline what the regulations do and then set out the policies and processes underlying their development, implementation, monitoring and review. The regulations we are considering today require members of the public to wear a face covering in relevant places, such as shops, supermarkets, enclosed shopping centres, banks, post offices and indoor transport hubs. There have subsequently been amendments to include further indoor premises, including museums, galleries, cinemas, bingo halls, libraries, community centres, public areas in hotels, crematoria and places of worship.

The regulations do not apply to children under the age of 11 or to employees working in those settings. The wearing of any protective clothing or personal protective equipment by the workforce is a matter for their employers following a risk assessment and is part of their health and safety responsibilities.

The regulations include a definition of “shop” to ensure that this captures the majority of retail premises, as well as a list of further premises included and a list of premises excluded from the requirement to wear a face covering—for example, a gym. Those lists have changed as more premises have been able to open.

The guidance on GOV.UK describes a face covering as a covering of any type covering the wearer’s nose and mouth. People need to make or buy their own, and guidance has been published online that shows how to make and wear a face covering. We are asking people not to use medical-grade PPE, which should be reserved for health and care workers. However, someone wearing actual PPE would be compliant with the regulations.

While the Government expect that the vast majority of people will comply with the rules, as they have done throughout the pandemic, the regulations give powers to the police and TfL officers to enforce the requirement to wear a face covering. TfL officers may enforce only inside a transport hub. This could include denying entry to the relevant place and/or directing members of the public to wear a face covering. The police will use their usual “Four Es” approach: engage, explain, encourage, and enforce only as a last resort. In the event that a person fails to comply with a direction by a police constable or TfL officer, they are able to remove the member of the public from that relevant place.

The regulations also include powers for police constables, police community support officers or, in relation to the relevant TfL hub, a TfL officer, to issue a fixed penalty notice to anyone over the age of 18 who is in breach of the law. This is a fixed penalty of £100, reduced to £50 if paid within 14 days of a notice being issued. Amendments that came into force on 28 August allow for fines to double for each offence under these regulations or the equivalent regulations on public transport up to a maximum value of £3,200. This is intended to address repeat offenders across indoor settings and public transport. There is no reduction for early payment from the second or subsequent penalties. The National Police Chiefs’ Council data published on 27 August shows that eight fixed penalty notices were issued between 24 July and 17 August.

Although we want as many people as possible to wear a face covering, we recognise that some people are not able to wear one for a variety of reasons. The regulations exempt children under the age of 11, employees or officials acting in the course of their employment in their premises and emergency responders when on duty. Subsequent amendments to the regulations to extend the scope of indoor places led us to add an exemption for elite sportspeople acting in the course of their employment, training or undertaking competition, and pupils under the age of 19 undertaking education or training within a place of worship as part of the curriculum of a religious school.

Although there is no general exemption on health or disability grounds, we recognise that for some, wearing a face covering is not possible on medical or equalities grounds or would cause distress or difficulty, and that there are certain situations where wearing a face covering is not practical or reasonable. The regulations therefore make provision for “reasonable excuse”, which may apply in certain circumstances and which provides persons in those circumstances with a reasonable excuse for not complying with the requirements set out in the regulations.

The regulations set out a non-exhaustive list of specific circumstances that are considered to be a reasonable excuse for not wearing a face covering. This includes where a person is unable to put on, wear

[LORD BETHELL]

or remove a face covering because of a physical or mental illness, impairment or disability, or where a person is speaking to or providing assistance to someone who relies on lip-reading, clear sound or facial expressions to communicate.

We have also taken into account other circumstances where there is a reasonable excuse to fail to wear a face covering, or where a face covering can be removed for reasons of safety or practicality. Members of the public 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 entering a relevant place to avoid injury or to escape a risk of harm and do not have a face covering with them.

Employees in these settings can also ask a member of the public to remove their face covering for identification purposes. We have been working with stakeholders to make sure that staff and the public are aware of the exemptions in place and that some people may have a reasonable excuse for not wearing a face covering that may not be apparent. We are also clear that people do not need to prove that they are exempt from the requirements to wear a face covering or have a reasonable excuse, and they should not be challenged about this. Authorised persons enforcing these regulations are expected to use their discretion and judgment when considering reasonable excuses and exemptions in the circumstances.

These regulations have been supported by a communications campaign explaining where face coverings are mandatory, how to wear one safely and encouraging understanding and awareness of those who may not be able to wear a face covering. We have set out the full detail of this policy in our guidance.

As expected, reports indicate widespread compliance with the requirement to wear a face covering in relevant indoor settings, and surveys suggest significant public support. The Office for National Statistics public surveys showed that from 29 July to 4 September, at least 96% of adults in England had worn a face covering when shopping. This figure has remained consistently high. However, we should not expect participation to reach 100% as there will always be people who are exempt or have valid reasons why they cannot wear a face covering.

A review clause is included in the regulations, requiring a review of the need for the requirements imposed by the regulations within six months. A sunset clause is also included so that the regulations expire at the end of 12 months after the day they came into force.

We will continue to monitor the impact and effectiveness of this policy in the weeks and months ahead, and we will develop our approach to enforcement and communicating the policy as necessary.

12.55 pm

*Amendment to the Motion*

*Moved by Baroness Thornton*

At end to insert “and that this House welcomes the introduction of the Regulations, but regrets the delay in bringing forward the Regulations as

Her Majesty’s Government has advised the public to wear face coverings in enclosed public spaces since 11 May, announced that face coverings would be mandatory in shops from 24 July on 14 July, and laid these Regulations under the made affirmative procedure on 23 July; further regrets that this delay has caused confusion over where people will have to wear face coverings due to the absence of detailed legal requirements being available in advance; and notes the concerns of the Secondary Legislation Scrutiny Committee in its 19th Report, published on 25 June, which urged Her Majesty’s Government ‘to ensure that the legislation follows on more closely from any announcement that they have made’.”

**Baroness Thornton (Lab):** My Lords, this amendment is by way of protest at how this issue has been mishandled by the Government.

I hope the House will understand that we on these Benches do not oppose the introduction of the wearing of masks, but we regret the truly incompetent way in which it is being done. We regret the delay in the regulations, as Her Majesty’s Government have been advising the public to wear face coverings in enclosed public spaces since 11 May and announced on 14 July that face coverings would be mandatory in shops from 24 July. They laid these regulations under the affirmative procedure on 23 July.

Further, we regret that this delay has caused confusion over where people have to wear face coverings, due to the absence of detailed legal requirements being made available in advance. The detailed regulations that employers, shopkeepers and others needed to know about to ensure that they complied with the law were published the day before the regulations became active, meaning that staff training, compliance and other such issues were dealt with without proper guidelines or information.

This is very serious. We want people to be safe and to follow the necessary restrictions, but they will not take the Government seriously and many will not obey the rules because of the lack of clear communication in a timely fashion. That is the cause of our regret.

In its 19th report, published on 25 June, the Secondary Legislation Scrutiny Committee urged Her Majesty’s Government

“to ensure that the legislation follows on more closely from any announcement that they have made”.

It said that

“even a short gap between regulations being laid and their coming into effect would better enable those affected to prepare, having seen the law’s actual detailed requirements (rather than just the headline announcement). While we fully understand the need for legislation to take immediate effect when imposing lockdown measures to protect public health, the justification is less strong when relaxations are being contemplated”,

as we have already said. The committee said that it was “aware that a number of COVID-19 instruments enable powers that can be switched on or off according to current infection levels, or are subject to review every 21 or 28 days: it would assist the House and the Committee if the Explanatory Memorandum in such cases included specific information about how and where the outcome of any review is to be promulgated and how Parliament is to be informed of any change of status.”

The Minister needs to take these issues into account. The House needs to know whether any lessons have been learned; that is the point of my amendment.



Finally, I thank the Minister for calling me yesterday to explain that he was not going to be present in person today. I am sure that, wherever he is, he will be bashing those raves down. I beg to move.

12.59 pm

**Lord Greaves (LD):** My Lords, I support the amendment and thank the Minister for his thorough explanation of the new regulations and how they will work, which is very helpful. I particularly support the part of the amendment that

“regrets the delay in bringing forward the Regulations”

back in the spring. Indeed, I regret the fact that the Government were not advising people to wear face masks even earlier—in particular in the early days of the virus, when there was a lot of concern about the lack of PPE generally and face masks were a substitute for people in care homes and so on who could not get hold of proper PPE. Nevertheless, face masks were better than nothing.

I congratulate people all over the country who set about making them on their sewing machines at home and distributing them—particularly a group in Colne who call themselves the Maskateers and ended up producing thousands of face masks initially for free distribution to local care homes and so on when they simply had nothing else. It was appalling that this was necessary but highly commendable that they did it. When the care homes began to get proper equipment, they continued making them and made them available to the general public for a donation, which has been to the great benefit of the local hospice—so not everything is bad in what has happened as far as Covid is concerned.

When I was cut off by time in the previous debate, I was talking about the fact that in our borough we had got to the top of the league table of the incidence of positive tests and were working very hard indeed to bring it down. In his reply, the Minister talked about the need for dedicated local outbreak plans. The point I was making was that that was exactly what we had. A lot of people were working very hard, based on the accepted mantra of “test, test, test”, then “track, track, track” the contacts and follow up to make sure that they were isolating. That is what we were doing.

That effective local work was destroyed in one day when the Prime Minister and the Secretary of State went on television and appeared to be blaming people who were not symptomatic for wanting tests. In our part of the world, with the full agreement of people at national level, we had been encouraging everybody to go and get tests so that we knew what was happening and where the problems were, and then—in the streets and areas where the main problems were—going and knocking on doors and getting people to do it. That is what I meant when I said that the Government had pulled the rug from under the work that was being done locally—and unfortunately our numbers are now going up again.

1.03 pm

**Baroness Hooper (Con) [V]:** My Lords, I welcome the clarifications from my noble friend as to the purpose and operation of these regulations. I also welcome the opportunity to question him about them, even if it is *ex post facto*.

As someone who was reluctant to wear a mask, I now find them rather comforting, and I predict that when the weather gets really cold, mask wearing will become positively popular. On the whole in the United Kingdom, our rules so far in this respect have been less stringent than in some other countries. For example, in Spain, even in holiday resorts, the wearing of masks outdoors as well as in shops, restaurants and so on is compulsory.

However, as has already been said by previous speakers, and indeed in the previous debate, there is considerable confusion among the general public. I appreciate the need for flexibility and change to respond to changing circumstances, but it is essential to get the message across.

The Government have issued guidance in relation to all these regulations. Can my noble friend tell us how this guidance and advice is made available to the general public? Most people get their information from television, radio and newspapers, but it is often interpreted and rephrased, which sometimes adds to the confusion. Further, can my noble friend tell us whether guidance has been issued in other languages and whether the guidance includes advice about hygiene in relation to face coverings, which I fear could become a germ trap if not regularly cleaned?

To add to the confusion, I note that these regulations apply only to England. It is to be hoped that those living and moving on a regular basis across United Kingdom internal borders are not faced with different sets of regulations and penalties if they do not comply with them. Did any consultation take place with the devolved Administrations before the issuing of this guidance to avoid any such added confusion?

I look forward to my noble friend’s replies, not only to my questions but to the amendment moved by the noble Baroness, Lady Thornton, with which I have some sympathy.

**The Deputy Speaker (Lord Faulkner of Worcester) (Lab):** The noble Baroness, Lady Andrews, is now not participating in the debate, so I call the noble Lord, Lord Flight.

1.06 pm

**Lord Flight (Con):** My Lords, taking the Motions we are discussing now and the previous ones, there are 50 speakers in total. It speaks for itself that 50 people care about this particular area of legislation. I see it rather as Sweden versus lockdown, in that there are very much two camps of thought on this territory. Bit I start by congratulating my noble friend Lord Bethell on the thoroughness of his explanation today.

Sweden gets to be known as the herd immunity group. People are obliged to wear masks but there is no facility for fining them. The UK laid down statutory instruments requiring people to wear them, with fines if they do not. The face coverings are with the aim of reducing the spread of Covid-19 and the regulations include a list of places where people must wear face coverings. The regulations add places to be covered when they are reviewed every year. The approach is designed to shelter people from contact but does not grow immunity, whereas the Sweden approach is in

[LORD FLIGHT]

essence to permit immunity to grow and so far looks as if it has been successful. Not many masks are yet compulsory. There is the key issue of older people who may have health failings such as asthma and diabetes and need full medical treatment. It will be interesting to see how Sweden deals with that aspect of things.

I conclude by saying that, properly managed, health masks work. I have a son who is training to be a doctor in New York. He and other young men and women are regularly in hospitals that are badly affected by the current problems. Remarkably, there is almost a nil incidence of paramedics working in his hospital being struck down by Covid-19. That says that masks work. They will work in the short term, but my worry is the long term and the potential repeat of the illness. That is where the Swedish approach needs more attention and application.

1.10 pm

**Lord Rooker (Lab) [V]:** My Lords, I promise I can tell the time. The Minister will have realised by now that there have been massive mixed messages. It is his job to get that sorted. We have heard that from both sides of the House.

I have a couple of questions to ask, then a couple on behalf of my noble friend Lady Andrews. Why are we still buying masks from China when there is clear evidence that, in the ordinary sense of the word, slave labour is used in some of the factories? My other point is that masks cover the mouth and nose. What about the eyes? I recall seeing a man in Wuhan back in January or February who said that when he went out shopping he covered his mouth and nose and wore his swimming goggles. Have the Government done any research, or seen any, on the effect of wearing spectacles on those entering hospital in the spring or summer months in respect of the virus?

My noble friend Lady Andrews, who regrets she cannot be with us, has a couple of questions, which I will ask in the time available. Can the Minister tell us in what respects the UK continues to follow the World Health Organization's advice on medical personnel and medical masks, or on wearing masks in the whole community? Can he tell us what research is in process to establish the relative effectiveness of the three-layer fabric masks that most people in the community are now wearing? What tests are being done on filtration, for example? Are some materials better than others at keeping out viruses? Can this information be made available?

Also, would the Minister agree that it might be a good idea to ask universities to require students who return to campus to wear masks when attending any lectures, seminars and especially lab sessions, where social distancing might be harder to maintain? This would be one move to stop the UK always being behind the curve. I will refrain from asking any further questions and conclude to try to make up for the abuse of time that just took place.

1.13 pm

**The Earl of Clancarty (CB):** My Lords, I support the amendment from the noble Baroness, Lady Thornton. As I said in previous debates, we should not be debating

these regulations so long after their introduction. Nevertheless, the debates we do have are important. I am convinced that the persistence of the noble Lord, Lord Campbell-Savours, in helping the Government shift their position on face masks, albeit grudgingly, has saved lives. One just wishes that face masks, like so many other measures, had been introduced earlier than they were.

I have recently been travelling by train quite a bit and taking the tube. From my experience, South Western Railway is not doing a bad job. At present, trains are long enough to socially distance and there are regular announcements by guards on the trains. Mask wearing is now the norm on station concourses such as Waterloo, as I asked the Government for in July. One thing I will ask the Minister to take a look at is that you never see sanitising gel dispensers anywhere near ticket machines. It might be advisable to carry your own bottle, but not everyone will.

Most people comply with mask wearing, at least in the locations so far legislated for, but a minority still do not, even considering exemptions. This week, I counted four separate individuals in one uncrowded tube carriage not wearing masks. Some railway workers and shop workers, who often stack shelves and are therefore out in the open, are not doing so either. It is not mandatory, but it is inconsistent.

Wearing masks protects others. One wishes that the Government believed in this measure more, but the equivocal stance they take makes room for naysayers, including celebrities. The science is not ambiguous, as the Minister quoted the CMO as saying this week. I ask him to look at the summary by Jeremy Howard and Trisha Greenhalgh of more than 100 studies concluding the effectiveness of masks. In March, the head of the Chinese Center for Disease Control and Prevention said that the mistake Europeans were making was not wearing them. This week, the virologist Robert Redfield, director of the United States CDCP, said that face masks might be a more effective tool in limiting the spread of Covid than a vaccine. This begs the question of how masks could be deployed further to tackle the increase in cases we are now seeing. I suggest this could include groups of schoolchildren walking to and from school.

I also ask the Minister to take a look at a new study from Florida Atlantic University, which concludes that cloth masks are significantly more effective than either visors or masks with valves. Droplets get in under visors. Visors look smart, but too many are using them as an alternative, rather than an additional form of protection, as is mandatory for hairdressers. The Government's guidance does not say much about visors; it could say more.

1.16 pm

**Lord Hayward (Con):** My Lords, I start by giving credit to Government Ministers who, despite all the difficulties, have faced an enormous, moving task throughout the last months. It is not something we know clearly about, and, as has just been indicated, the science changes. I have sympathy with what the noble Baroness, Lady Thornton, said, but equally, in these difficult circumstances the guidance is changing

on a daily basis from one part of the world to another, as has just been indicated. We are discovering information about this pandemic from wherever it may happen to come, largely from university and medical centre research from all over the world.

As the Minister said, the regulations impose a duty—all regulations do—but they also send a message. The problem, as the noble Earl just identified, is that some are avoiding that duty and others are not receiving the message. I was interested in my noble friend the Minister's use of the figure that 96% have used masks in shops. We can all phrase questions to get the answer we want. I suggest that the people doing those surveys should go to any supermarket or get on any bus in London, because the figures are nowhere near that. A businessman texted me this morning to say that it was a 30% failure rate. I would say that it is probably slightly less than that, but when I was coming in this morning the only person on the upper deck of the bus with me was not wearing a mask.

That comes the question of where the duty lies to apply the regulations. At the moment, the police have that duty. One of my neighbours is a night-time bus driver. He says that he would not dare attempt to apply it for fear of being beaten up, which one can well understand in inner-city London. However, he does not have the backing of the law in relation to the application. I believe that large shops and bus operators should be told that they must implement it and that they have the responsibility themselves. We cannot just ask the police to impose the regulations. I therefore ask for strict implementation in some places.

On the other hand, I note that my noble friend Lord Robathan is due to speak. His wife is the leader of Westminster Council. I was in Soho the other day, which is absolutely moving and alive. I suggest that some of those who operate the regulations in this House should visit to see how they are applied in Westminster. Having said that, I make one concluding observation: another part of the regulations would be that, in stress areas, people should be required to wear masks when walking on the streets alongside restaurants.

1.19 pm

**Lord Campbell-Savours (Lab) [V]:** [*Inaudible.*]—but on four separate occasions, on 8, 24 and 29 July, and again on 14 September, I raised the issue of valves on masks. I have argued consistently throughout that the only people who should wear valve masks are medics working in a clinical setting. Therefore, for the fifth time of asking, as they say, will Ministers rule out N95s and other valve masks, apart from in clinical settings? They serve to protect only the wearer and not potential aerosol-contaminated recipients. Valves leak. Valve masks are designed to make it easier to breathe out because their one-way valves release exhaled air without forcing it through a filter. There are now far too many valve masks in circulation, giving the public an exaggerated sense of safety.

I appeal to the Government to please address this issue. A flood of well-documented material is available for officials to consider. The research review document *Face Masks Against COVID-19: An Evidence Review*

deals with transmissibility in both pre-symptomatic and asymptomatic cases, and, in particular, with the filtering characteristics of masks. Officials should read it.

However, of particular interest is the position in San Francisco, where a public health emergency order has been issued, stating:

“Violation of or failure to comply with this Order is a misdemeanor punishable by fine, imprisonment, or both.”

The order defines non-compliant masks and states:

“Any mask that incorporates a one-way valve ... that is designed to facilitate easy exhaling allows droplets to be released from the mask, putting others nearby at risk ... must not be used to comply with this Order”.

How do Ministers respond to that?

On associated matters, I also ask that Ministers review my Question to the noble Baroness, Lady Vere, of 9 September, reported at col. 785 of *Hansard*, on legal liability and that I be given a full, considered response. I also ask that the Minister respond to my question on the use of positive-pressure masking systems, which I raised on 24 July with the noble Lord, Lord Bethell. My noble friend Lord Rooker raised the issue of three-layer fabric masks—the subject of a question from my noble friend Lady Andrews. I hope that Ministers can reply comprehensively to that particularly important question.

1.22 pm

**Baroness Noakes (Con):** My Lords, I support what the noble Baroness, Lady Thornton, said about delays in making regulations and parliamentary scrutiny. However, I cannot support her amendment, because it starts by welcoming the regulations, which I do not.

The Government have been all over the place on face coverings. Way back in March, the Government's scientific advisers, led by the Chief Medical Officer, were clear that masks should not be worn. Not only was there no evidence of widespread benefit from wearing masks but the disbenefits were acknowledged—for example, that they trap the virus close to the face. As I understand it, the CMO and his team still believe that, at best, the evidence is ambiguous, although as the noble Earl, Lord Clancarty, showed us earlier, a variety of scientific views is available.

The World Health Organization—another body which has not covered itself in glory in the coronavirus outbreak—did not recommend the widespread use of masks until early June, and even then its advice was firm only in relation to the wearing of medical-grade masks by health professionals and those who are symptomatic. In relation to the general public, there was merely a recommendation for Governments to encourage the wearing of masks where community transmission could occur. The WHO said that there was still no firm evidence that the wearing of non-medical-grade face masks was effective and that social distancing and hand hygiene remained the key defences.

As is typical of this Government's response to the virus, they were not content with guidance or encouragement, but went the full distance with legal requirements and fines. They started with public transport in June and went on from there in July and August with the orders before us. They have even increased the maximum fines.

[BARONESS NOAKES]

The results are not logical. I cannot be fined for not keeping a two-metre distance in a supermarket queue or for not washing my hands, both of which are said to be effective actions in containing the spread of the virus, but I can be fined for not wearing a face covering, even though the evidence for efficacy is lacking. In addition, the regulations allow any old face covering, even though it could be dangerously soiled or inherently ineffective, such as a single-layer gauze face covering. This is policy-making at its worst.

1.25 pm

**Baroness Bowles of Berkhamsted (LD) [V]:** My Lords, debating these instruments after the event and after the earlier messaging against masks is a sorry state of affairs. I wish that there had been encouragement of voluntary wearing of cloth coverings at an earlier stage.

I am not a medical expert, although I am a physicist and mathematician with some experience in the spreading computations that are relevant for viruses. I also practised for over 25 years as a patent attorney, where I learned that it is often necessary to deal with and protect inventions at a stage well before the high level of academic proof is reached—indeed, adherence to academic levels of proof has held back until too late some commercial exploitation of university research. Against that background, I cannot help but think that the need for academic levels of evidence, prevailing over a precautionary principle, in the matter of masks did not serve us well.

There is a reason we have the adage “Coughs and sneezes spread diseases”. The science is pretty clear that Covid is spread by droplets that come out of infected people’s mouths or noses when coughing, sneezing, talking and even breathing. If coughing into your elbow or a tissue is a safeguard against spreading, it seems logical that so is a mask. What was wrong with a precautionary principle? I have no evidence that my young grandchildren will run into a road and get hurt, but I hold their hands just in case.

The Government followed the line taken by the WHO about there being mixed evidence and there was panic about using up supplies of PPE, but it is astonishing how little face coverings were discussed in NERVTAG and SAGE, with minutes recording reasons to oppose masks rather than any precautionary principle. The reasons were that they would create fear and anxiety but also a false sense of security; that they would lead to the abandonment of hand washing and social distancing, although there was no suggestion that they might be a visual reminder; and that they would lead to more touching of faces, although in my own case I found them quite good at reminding me to do it less. The “not to mask” reasons were not tested to levels of academic rigour and confused the message just in time for the U-turn and compulsion, with, most probably, lower levels of adherence as a result.

1.28 pm

**Lord Blencathra (Con):** My Lords, I support these regulations, but I urge my noble friend the Minister to go further and simplify the rules on wearing face masks.

First, I agree 100% with my former Cumbrian sparring partner, the noble Lord, Lord Campbell-Savours. Yes, I know that there is often a huge sigh when he makes the same point over and over again, but I think that he is absolutely right: face masks should be worn by everyone, every time and in every place, except when in one’s own home or when eating or drinking in a properly socially distanced establishment.

The government line is that there is no conclusive evidence that face masks work. However, if that is the case, why have all medical staff for the last six months made such a terrible fuss when they have not had enough of them? Every doctor and nurse wears a face mask, and, if they work for the medical profession, they can work for everyone else. There is good evidence that, even if they do not stop the inhalation of every droplet, nevertheless they reduce the overall load of infection inhaled. There is now cast-iron evidence that the initial intake of the virus is the crucial thing between a mild infection and a life-threatening one.

Just as I approve of simplifying all those bubble rules that we had into a rule of six, so I approve of simplifying all our face-mask-wearing rules. I ask my noble friend to tell the media to stop whingeing about not meeting granny at Christmas. Christmas is three months away and anything can happen in the meantime.

On a train, passengers and crew wear masks most of the time, but shop assistants are exempt, it seems. I was in a shop last week and every shopper was wearing a mask, but a guy filling the shelves had no mask and was coughing and wheezing like an old sheep with lungworm. How does that encourage others to obey the law? I am a libertarian and—the Lord Chairman would strongly disapprove of this—if someone kills themselves with 60 cigarettes a day, I do not mind so long as it does not affect others and I do not have to pay for it. That is why I deeply resent those who are guzzling themselves obese and expect NHS taxpayers to pay the bill for their diabetes treatment. So I do not care if people cram themselves into a ghastly Ryanair flight or pack a pub and get Covid-19—it serves them right—but I care very deeply indeed that they are infecting other innocent people, such as their more elderly relatives, their friends and their workmates.

For many years, we have seen oriental tourists in London wearing masks. It is nothing to do with Covid-19, but out of courtesy because they have a cold and do not want to infect others. I commend that oriental courtesy and culture. It is high time everyone in this country did the same every time they are outdoors or in public places with no exemptions, except for a few medical exemptions, and no excuses. Report them instantly and hit them hard with penalties when they do not comply.

1.31 pm

**Baroness Massey of Darwen (Lab) [V]:** My Lords, I shall address issues of messaging and compliance, which are key areas of concern in any public health intervention. They are not effectively addressed in the documents before us today and cause confusion, as stated by my noble friend Lady Thornton. I realise that coronavirus is a complex infection, but intervention measures must not be complex, otherwise they will not be understood and complied with.

In the UK, we have had many public health campaigns which have been highly successful, such as the HIV/AIDS campaign many years ago, when the Lord Speaker was Secretary of State for Health and insisted that messages should be timely, accurate, straightforward and targeted not only at the general population but at those considered to be most at risk. The teenage pregnancy strategy targeted at-risk groups with information, but also worked in communities and with local teachers and health workers on board.

How does this relate to face coverings? First, the messages being given out are too complex. Many people are confused or do not think that the warnings are applicable to them. People must trust the messages and those delivering them in order to co-operate. Local involvement in messaging and action is essential. I have seen the advantages of the wearing of face coverings expressed in simple diagrams which show how rates of infection are highly affected if two people in proximity wear a mask. I have not seen this simple diagram or simple information about why we should wear face coverings displayed in public places anywhere. It is all about warnings, with too little information and encouragement.

How are the Government targeting younger people? Are there messages on social media? Are students, for example, receiving approaches which are young people friendly? Can the Minister clarify what the recommendations are for schools and whether they are likely to change? I am aware that the World Health Organization has recommended that pupils above the age of 12 should wear masks, but the Government seem happy that other restrictions are satisfactory. Is that still the case?

I now have a question about public transport. How can repeat offending be identified? I hear announcements on trains saying that masks are compulsory until passengers leave the station, yet I have now consistently seen at least half the staff on a station not wearing a face covering. What kind of example is that? Yesterday, on leaving Victoria station, I encountered a tourist group of around a dozen people aged between 20 and 30 without face coverings, mingling without any distancing. As I said earlier, messages have to be simple, consistent and believed. Why are messages not getting through? If penalties are to be a deterrent, how will this be made more effective?

1.34 pm

**Baroness Gardner of Parkes (Con) [V]:** [*Inaudible*] the regulations and amendments that the Minister has moved, together with the clarity they bring. However, in future we should seek to ensure that regulations swiftly follow any announcement. My family tell me that too often they see young people, particularly young men, not wearing masks when required. This selfish behaviour puts others at risk. With the rise in the number of cases of coronavirus infection, compliance with the regulations is essential. I ask the Minister what more can be done to educate people and encourage them to wear face masks.

1.35 pm

**Baroness Ritchie of Downpatrick (Non-Aff) [V]:** My Lords, I thank the Minister for his explanation of these statutory instruments. Undoubtedly, face masks

or coverings are an important defence mechanism in our joint fight against Covid-19. However, I agree with the amendment to the Motion tabled by the noble Baroness, Lady Thornton, and the views of the Secondary Legislation Scrutiny Committee that the legislation needs to follow more closely any announcement that has been made. This is viewed as an obstacle to parliamentary scrutiny. In this debate and the previous debate, many noble Lords articulated the view that we are affirming and approving regulations well after the time that they have been implemented. In my view, that is not good for parliamentary democracy.

I have several questions to pose to the Minister. If he is not able to answer today, perhaps he will do so in writing. Will he specify how the machinery of government will ensure that the process of scrutiny can be enabled more quickly and that announcements will be made in a more timely manner after the legislation has been enacted, recognising and acknowledging the fact that we are in different, challenging times? Undoubtedly, the three approaches of social distancing, hand washing and face coverings are still sound advice, but they have to be accompanied by a very sound track-and-trace system. Will the Minister highlight how robust, resilient and adequate the current system is, and whether any assistance is being obtained from other countries in this operation?

However, people will be satisfied, content and happy about going out only when there is a vaccine for Covid. What progress has been made in ensuring, first, that the flu vaccine will be made more widely available this autumn via the NHS? What progress has been made on developing global vaccines? What is the estimated time for their ability? According to the World Health Organization:

“172 countries and multiple candidate vaccines engaged in Covid-19 vaccine Global Access Facility.”

What is the up-to-date position, and when is it likely that such a vaccine will be available in the UK? What will be its method of distribution throughout Britain and the devolved regions?

1.38 pm

**Baroness Sanderson of Welton (Con) [V]:** My Lords, as previously acknowledged by my noble friend Lady Noakes, there is not yet definitive evidence of the efficacy of face masks. But if wearing them potentially helps protect others from the virus, that is something we should all want to do. However, we should not ignore the fact that mandating their use is a controversial policy, which at worst compromises individual liberty and at best is a considerable inconvenience which could discourage some people from going about their normal business, be that travelling on public transport, attending church or simply getting back to the shops. On that basis, will the Minister say whether any consideration has been given to when the Government might lift the mandatory wearing of face coverings in certain circumstances? For instance, will it be based on the Covid alert level reducing? If so, will they announce any change so that the wearing of face masks does not end up becoming a social norm by default?

1.40 pm

**Lord Dubs (Lab) [V]:** My Lords, I very much support the amendment to the Motion in the name of my noble friend Lady Thornton. I agree with many of the comments that have been made; I pick out my noble friend Lady Massey, who said a lot of things with which I agree.

We must avoid inconsistency. If there is inconsistency in applying advice, guidance and compulsion in the use of face masks then the public will not support it. It is essential that the public understand what is going on. In my experience, I have seen members of the public being pretty good about going into shops, and I understand that on public transport they are not bad, but there are lapses.

I have a number of questions. Why do employees, particularly in shops, not have to wear face masks? It is a signal to customers if the staff in shops are wearing masks, and in a way it encourages sloppiness if they are not wearing them while we have to.

The public need to understand what the benefits are. Are the benefits for the wearer or for the person they are talking to? I wonder whether I should have a T-shirt made that has on the front, "My mask protects you", and on the back, "Your mask protects me". Does the Minister agree that that reflects the policy?

Should we not make masks compulsory outdoors, certainly in cities? I believe that is the case in parts of France and parts of Spain. Walking along a shopping street before even going into a shop, one comes into contact with many people. Why not make masks compulsory in shopping centres, where we would protect people going shopping? I understand that the practice varies from one country to another and that is why there is uncertainty.

I asked a question about police powers in the earlier debate, but I do not think the Minister answered it. What are the police powers in this? If they see people walking into shops, is it the shopkeeper or the shop staff who should say, "Get out unless you have a mask on", or should the police be invoked into doing that? A similar question applies on public transport.

My main plea is the one that I started with: there must be consistency and there must be understanding on the part of the public. That way, we can make the policy work.

1.42 pm

**Lord Robathan (Con) [V]:** My Lords, since the beginning of this crisis we have been exhorted to save lives, a slogan that we all understand and we all support. Not far from where I am sitting, Oadby and Wigston Borough was put back today under restrictions, while there has been a lockdown again in Leicester itself, which is next door. Leicester is a serious area for Covid. However, the last death from coronavirus in a Leicester hospital took place on 31 August. Could the Minister please explain that evidence?

It is not infections as such that matter, although they are of course relevant and important, but hospitalisation and death. Could the Minister now answer the question that I asked last week: how many people under the age of 65, without underlying health

conditions such as diabetes, have died in the last six months? I believe that some 6,000 people under the age of 65 have died, but how many were actually healthy? Remember that 11,000 people die every week in this country.

On face masks, as my noble friend Lady Noakes, whom I support, mentioned, the WHO said until 6 June that there was "no evidence" that healthy people should wear masks. On 4 March Chris Whitty said that

"our advice is clear: that wearing a mask if you don't have an infection reduces the risk almost not at all. So we do not advise that."

On 28 April, Matt Hancock said that the evidence was "weak". On 15 June he decided to make masks compulsory on public transport and on 24 July compulsory in shops, yet on 28 August the Deputy Chief Medical Officer, Jenny Harries, said:

"The evidence on face coverings is not very strong in either direction."

On 14 September face coverings were made mandatory in indoor public places in Wales but they had not been for the previous seven weeks as they had been in England. Even SAGE said that

"there is a small benefit but it's based on very weak evidence."

Indeed, back in the spring we were told that face masks could actually increase the amount of virus that an infected person inhaled and therefore might be dangerous. I think we can all agree that this has been confusing.

In this public health crisis, we need courageous political leadership. Self-evidently, the scientists do not agree, so we cannot follow the science. We can only follow the evidence of serious harm and death. What evidence is there that face coverings are saving lives? My own view is that many of those who died earlier in this epidemic were likely to have died anyway and that, while it is tragic, they were the most vulnerable. It is contradictory to say, "Go back to work and take the Underground but be afraid, be very afraid and wear a face mask". This policy is confused, contradictory and not based on any clear evidence.

I took advice on dividing the House on this measure but these rather ridiculous non-debates make it difficult. It would have been somewhat self-indulgent. I note that the noble Baroness, Lady Thornton, may do so but, like my noble friend Lady Noakes, I cannot support something that says I support the measures. We need clear, courageous leadership based on strong evidence to get us out of this crisis. I fear that we have yet to see a clarity of policy on coronavirus.

1.46 pm

**Baroness Barker (LD):** My Lords, regarding the Coronavirus Act passed in March, the Joint Committee on Human Rights made the following statement about the powers the Government assumed for themselves under that Act:

"Such extreme measures can only be considered lawful, justified, necessary and proportionate if (1) the threat from disease and death remains sufficiently significant to justify such extraordinary measures; (2) the measures only interfere with human rights and civil liberties to the extent necessary; (3) the measures are enforced in a clear, reasonable and balanced manner; (4) enforcement is authorised, and does not go beyond what is prohibited, by law."

We can all agree on the first point. There is a very real threat from this virus but, six months on from the passing of that Act, we have to question the Government on the three other aspects pointed out by the Joint Committee.

On the previous set of regulations we debated this morning, the Minister said, “We now understand the nature of transmission of the virus”. If that is so, when will he publish the evidence that lies behind that statement? While the Government may understand it, individuals do not. I come from the standpoint that most people in this country want to do the right thing to protect themselves, their families, other people and their businesses, and they are genuinely confused about what to do.

Having looked at these regulations, with all the exemptions in them I do not think it would have been possible to make it much more difficult for anybody trying to enforce them if you tried. Therefore, given that we are now way behind on scrutiny as it should have been done, we are at a point where we can ask what their effect has been in practice. How many fixed penalty notices have been issued under these regulations? Who are the main recipients of FPNs, and in what areas? What information do the Government have about compliance rates in different types of venue, such as places of worship versus clinics or pubs? It is important that we get that information to inform the next set of regulations, which will inevitably follow from these.

How many court proceedings have been initiated under these regs? Again, what are the characteristics of the people who are being taken to court? How many fixed penalty notices have been given because of a failure to wear a mask on public transport? I too sat on a Tube train yesterday with two people not wearing masks. Everybody’s response was typically British; we did nothing but read the paper. The people may well have had a good reason and an exemption—I have no idea—but nobody there knew.

I want to come on to the key issue of communication. The Government have been communicating in difficult circumstances, but overall I think their communication has been extremely poor. The new regulations for the north-east came into force last night, but they were still not up on the government website this morning. They are on legislation.gov.uk—but individuals, people running businesses and local authorities would not know what they were supposed to be doing and how they were supposed to comply. Leeds asked for a limited restriction for a particular purpose, because it could see a reason for it, but that was turned down by central government for no good reason.

The Government have spent an awful lot of money; they have spent £840,000 with one company run by close associates of Dominic Cummings and Michael Gove. I have to ask on what basis its work will be evaluated, because the Government’s communication has been confused and inconsistent. If you compare it with some of the international comparators, such as Italy—not a nation generally known for a compliance with the law—it has had very clear messaging, and rates of compliance are very high.

The rule of six is a nonsense, and I think that people have worked out for themselves that it is arbitrary nonsense. Six individuals from different households meeting up every day, and six other individuals the next day—there is no way in which it makes sense, particularly in the absence of effective and timely test and trace data.

Earlier this week, on an Urgent Question, my noble friend Lord Scriven as asked why the Local Government Association did not receive local lockdown plans notice until one hour before the announcement. The Minister’s response was telling; he said

“it must have been the last one on the list”.—[*Official Report*, 14/9/20; col. 1000.]

That has been the fundamental problem all the way through: central Government think that they and their mates know better than the people who work in local government or the local public service agencies who are going to have to implement this.

I suggest to the Minister that, if he cannot answer my specific questions now, on this occasion can he write to me? We have to stop more daft ideas such as Covid marshals and come up with a coherent plan to work with local government in ways outlined by my noble friend Lord Greaves. This legislation is going to be reviewed, and it needs to be reviewed on the basis of evidence, not wishful thinking by government.

1.52 pm

**Lord Bethell (Con) [V]:** My Lords, I thank all those involved in this debate for a really important contribution. This face-coverings debate is always a very tough one. It is tough because in many of our areas of response to Covid we have really clear evidence-based decision making. In the area of lockdowns, we have a huge amount of information from the ONS, REACT and our test and trace system. With the clinical trials of our therapeutics, we have incredible data from patients and from recovery. We have a numbers-driven approach to a lot of the response on Covid, but in this area of masks—there is no two ways about it—it is heavily contested. The proof points on whether masks make a difference are not proven. Different groups have different perspectives. Therefore, we are left to rely on principles of common sense, taste and preference, and those are not the principles on which we can run an effective epidemiological response to this horrible disease.

Our epidemiological response has two levels. The first and by far the most important level is reliance on hygiene and social distancing—the “Hands, Face, Space” protocol. That is the one that will beat the virus and it is the one advocated by the CMO, and the CMOs from all the nations of Britain, and it is our primary front in our battle against Covid. The second tier is test, trace and isolate, which is effective and important for surveillance, and is proving to be impactful in breaking the chain of transmission.

Turning to face coverings, I am grateful to all noble Lords who have contributed to this debate. Like my noble friend Lord Blencathra, I particularly thank the noble Lord, Lord Campbell-Savours. He has provided evidence-based commentary and been an advocate, in very reasonable terms, for the wearing of face coverings and we are grateful for his characteristically energetic contributions. I hope to answer his specific questions in turn.

[LORD BETHELL]

The noble Baroness, Lady Bowles, put it well. We cannot lean on clinical trials and scientific modelling to provide clear-cut solutions on this one. Where does that leave us? Since 11 May, we have brought in a proportionate and evolving strategy on masks. It has been brought in in a way which does not compete with social distancing and hygiene as the Government's priorities. The messages we have put forward on face coverings are designed so that they do not confuse the public about their importance. My noble friend Lady Sanderson put it really well. We cannot give the public the idea that wearing a mask is in any way a defence against the disease or an effective substitute for social distancing. If we did that, we would be blowing up our first line of defence.

Turning to noble Lords' questions, the noble Lord, Lord Campbell-Savours, made a strong point about valves. These are typically used in medical PPE, where they are highly regulated, but he has observed, as I have, their clumsy use in retail face coverings. Any face covering that fails to stop the transmission of droplets is not achieving its basic objective and would therefore be in breach of our guidelines, which are clear. We will look into whether further communication is needed on this point.

Many noble Lords, including my noble friend Lady Hooper asked about compliance. As my noble friend Lord Hayward, the noble Baroness, Lady Barker, and others have stated convincingly, the ONS statistics on compliance do not completely align with one's personal experience. We therefore took the decision to strengthen the penalty system for face-covering regulations to discourage non-compliance, in particular for repeat offenders. The laddering of fines which was brought into force on 28 August has coincided with a massive increase in the public's use of face masks, or at least that is my perception.

As several noble Lords have rightly argued, it is important that people who are exempt are not accosted or abused in any way. I welcome the appeals made in this Chamber for "No mask" badges for those who are exempt. I celebrate the fact that a design for such a badge is published on GOV.UK.

A number of noble Lords, including the noble Lord, Lord Rooker, and the noble Baroness, Lady Barker, have accused the Government of mixed messages. We have worked hard to communicate well on this, but we are competing with our principal messages of social distancing and good hand hygiene. For that reason, we have not put the marketing and messaging about face masks at the top of our messages.

A number of noble Lords asked about recent research. The noble Baroness, Lady Noakes, is entirely right. In August, the WHO updated its guidance on,

"specific considerations for the use of non-medical masks, also known as fabric masks, by children as a means for source control in the context of the current ... pandemic."

It also advises on the use of medical masks for children under certain conditions. We are seeking to follow that guidance.

In August, SAGE SPI-B reviewed evidence which suggested that mandating face coverings was one of the key behaviours to help deliver Covid-safe large

events in large venues. This is in conjunction with other behaviours, including regular handwashing and social distancing.

Other research has been published by the Health and Safety Executive for the benefit of employers. This includes research on the effectiveness of surgical masks against a range of airborne particles and older research to help inform greater compliance with wearing face masks. Further research is being funded by UKRI about the effectiveness of face coverings and face masks and the factors underpinning compliant behaviour with face-covering regulations. Emerging findings are published on the UKRI Coronavirus Hub. I encourage all those with an interest in the area to keep track of that source of evidence.

In September, SAGE reviewed evidence which suggested mitigation of the risk of transmission of the virus in higher education settings through measures including face coverings. This is particularly in educational settings and areas of universities where social distancing may be more difficult.

In response to the question asked by the noble Lord, Lord Greaves, about testing, let me clear that we are by no means at the end of our ramping-up of testing. His testimony about his experiences in Pendle is powerful, and I would be glad to meet the noble Lord to discuss them.

My noble friend Lady Hooper raised an important point about ensuring that guidance for face coverings is clear and communicated to all. I reassure her that we will publish accessible guidance, including in other languages, which will cover how, when and where to wear them safely.

The noble Baroness, Lady Massey, asked specifically about the use of face coverings in schools. The Department for Education has updated its guidance on wearing face coverings in schools following both the WHO and SAGE statements on children. The Government's priority is to get children back to schools and colleges safely.

The noble Baroness, Lady Ritchie, asked about a potential Covid-19 vaccine and when it might be possible. I reassure her that the department, along with NHSI and PHE, is currently planning for the delivery of any successful vaccine candidate.

We keep the area of face coverings under close review. The public mood on this has shifted considerably. We are aware of a more nuanced understanding about the use of face coverings by many in the public. We will revisit this subject regularly. This has been an informative and powerful debate. I hope therefore that the noble Baroness, Lady Thornton, feels able to withdraw her amendment.

2.02 pm

**Baroness Thornton (Lab):** I thank the Minister. I want to pick up on the previous debate, when the Minister was concerned to assure the House that the Government listen carefully and take account of these debates. This discussion—and that which has gone on for many months about face masks—is probably one of the very few times when we can say, particularly if I might pay credit to my noble friend Lord Campbell-Savours, that we possibly have influenced government policy. I hope that the Minister will take on board, as



he said he would, the remarks of my noble friend about the types of face mask, because he is definitely an expert in these matters.

I wish this were true of all the other issues. The discussion about face masks began very early in this pandemic, in late April and early May. The statutory instrument that we are discussing today was laid in July. There seems to be no reason why we could not have taken it through the normal parliamentary process in that time and not be playing catch-up two months later. That is the reason for my amendment.

As someone who travels on public transport almost every day, I recognise that there are clear problems, as the Minister and many other noble Lords have said. We need a major public information campaign about the wearing of masks. I have seen no enforcement whatever. On saying that ONS data shows huge compliance, as the noble Lord, Lord Hayward, said, it depends when you look. On my tube this morning, there were two young men—one sitting opposite me—neither of them wearing a mask. I offered them masks, because I carry spares—I confess that I have become a bit of a mask monitor. I said, “You haven’t got your mask on. Would you like one?” One of them took a mask out of his pocket and immediately put it on. The other got off the train. I completely agree with the Minister that you have to be careful, because there are people who cannot wear masks. One way of getting around that is just to offer one to somebody who does not have one and see what happens.

It is also my observation that those not wearing their masks on the Tube are, mostly, blokes. They also do not pull them over their noses, which makes them almost completely redundant. An educational programme, and possibly the pictures on the Tube, should show that you must put your mask over your nose. This is important because, as children have gone back to school and people are returning to work, social distancing has become almost impossible on the Tube and on buses—wearing a mask is therefore much more important.

I wonder if it might be an idea for all Ministers, their advisers and special advisers to travel on public transport for a week. Perhaps then they might understand the challenge and realise that people will increasingly feel unsafe unless masks are worn regularly and there is compliance.

The Minister mentioned the exemption card template, which I think is an extremely good idea. I hope that the Government will put some resource into making sure that that happens as often as it can.

Although enforcement is a matter for the police and specified officials, the government guidance says that:

“Businesses should take reasonable steps to encourage customer compliance”.

Can the Minister explain to me in writing—since he cannot come back to me; it is not often that I get the last word, but I do today—what that means in practice?

Many people find mask wearing uncomfortable, but they are complying. The Government need to recognise that this shows that the vast majority of people in the country really are willing to do almost anything to try to deal with this pandemic. Wearing

masks will be with us for a long time to come, I think. We need to recognise that this is an important part of ensuring safety for all of us and our families.

I thank noble Lords for their support for my amendment, particularly my noble friends Lord Dubs, Lord Rooker, Lady Massey and Lord Campbell-Savours, and others. My amendment to the Motion was put down as a sentiment of frustration over the way these statutory instruments are being handled. That frustration has been well expressed by noble Lords. I hope that the Minister has heard it, and I beg leave to withdraw the amendment.

*Amendment to the Motion withdrawn.*

*Motion agreed.*

### **Health Protection (Coronavirus, Wearing of Face Coverings in a Relevant Place) (England) (Amendment) Regulations 2020**

*Motion to Approve*

2.08 pm

*Moved by Lord Bethell*

That the Regulations laid before the House on 7 August be approved.

*Relevant document: 25th Report from the Secondary Legislation Scrutiny Committee*

*Motion agreed.*

### **Health Protection (Coronavirus, Wearing of Face Coverings in a Relevant Place) (England) (Amendment) (No. 2) Regulations 2020**

*Motion to Approve*

2.09 pm

*Moved by Lord Bethell*

That the Regulations laid before the House on 21 August be approved.

*Relevant document: 25th Report from the Secondary Legislation Scrutiny Committee.*

*Motion agreed.*

### **Health Protection (Coronavirus, Wearing of Face Coverings in a Relevant Place and on Public Transport) (England) (Amendment) Regulations 2020**

*Motion to Approve*

2.09 pm

*Moved by Lord Bethell*

That the Regulations laid before the House on 27 August be approved.

*Relevant document: 25th Report from the Secondary Legislation Scrutiny Committee.*

*Motion agreed.*

*House adjourned at 2.09 pm.*