

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT

Second Delegated Legislation Committee

HEALTH PROTECTION (CORONAVIRUS, WEARING  
OF FACE COVERINGS IN A RELEVANT PLACE  
AND ON PUBLIC TRANSPORT) (ENGLAND)  
(AMENDMENT) (NO. 3) REGULATIONS 2020

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OF FACE COVERINGS IN A RELEVANT PLACE)  
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OF FACE COVERINGS IN A RELEVANT PLACE  
AND ON PUBLIC TRANSPORT) (ENGLAND)  
(AMENDMENT) (NO. 2) REGULATIONS 2020

*Monday 12 October 2020*

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**Friday 16 October 2020**

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**The Committee consisted of the following Members:**

*Chair:* DR RUPA HUQ

† Bell, Aaron (*Newcastle-under-Lyme*) (Con)  
 Cummins, Judith (*Bradford South*) (Lab)  
 † Green, Chris (*Bolton West*) (Con)  
 Johnson, Dame Diana (*Kingston upon Hull North*)  
 (Lab)  
 † Mackrory, Cherilyn (*Truro and Falmouth*) (Con)  
 † Maclean, Rachel (*Parliamentary Under-Secretary of*  
*State for Transport*)  
 † Madders, Justin (*Ellesmere Port and Neston*) (Lab)  
 † Mohindra, Mr Gagan (*South West Hertfordshire*)  
 (Con)  
 † Mumby-Croft, Holly (*Scunthorpe*) (Con)

† O'Brien, Neil (*Harborough*) (Con)  
 Osamor, Kate (*Edmonton*) (Lab/Co-op)  
 Rees, Christina (*Neath*) (Lab/Co-op)  
 † Rutley, David (*Lord Commissioner of Her Majesty's*  
*Treasury*)  
 Sharma, Mr Virendra (*Ealing, Southall*) (Lab)  
 † Smith, Greg (*Buckingham*) (Con)  
 † Twist, Liz (*Blaydon*) (Lab)  
 † Williams, Craig (*Montgomeryshire*) (Con)  
 Nicholas Taylor, *Committee Clerk*  
 † **attended the Committee**

## Second Delegated Legislation Committee

Monday 12 October 2020

[DR RUPA HUQ *in the Chair*]

### Health Protection (Coronavirus, Wearing of Face Coverings in a Relevant Place and on Public Transport) (England) (Amendment) (No. 3) Regulations 2020

4.30 pm

**The Parliamentary Under-Secretary of State for Transport (Rachel Maclean):** I beg to move,

That the Committee has considered the Health Protection (Coronavirus, Wearing of Face Coverings in a Relevant Place and on Public Transport) (England) (Amendment) (No. 3) Regulations 2020 (S.I., 2020, No. 1026).

**The Chair:** With this it will be convenient to consider the Health Protection (Coronavirus, Wearing of Face Coverings in a Relevant Place) (England) (Amendment) (No. 3) Regulations 2020 (S.I., 2020, No. 1028) and the Health Protection (Coronavirus, Wearing of Face Coverings in a Relevant Place and on Public Transport) (England) (Amendment) (No. 2) Regulations 2020 (S.I., 2020, No. 1021).

**Rachel Maclean:** It is a pleasure to serve under your chairmanship, Dr Huq. These regulations amend the Health Protection (Coronavirus, Wearing of Face Coverings in a Relevant Place) (England) Regulations 2020 and the Health Protection (Coronavirus, Wearing of Face Coverings on Public Transport) (England) Regulations 2020, henceforth referred to as the face coverings regulations and the public transport regulations respectively.

The public transport regulations came into force on 15 June and made it mandatory for passengers to wear face coverings on board most modes of public transport. Following that, the face coverings regulations came into force on 24 July and made it mandatory for people to wear face coverings in some indoor settings in England, such as shops, supermarkets and indoor transport hubs. Three amendments were made to the face coverings regulations in August, including extending the list of indoor settings where members of the public were required to wear a face covering, to ensure that we were taking the necessary steps to protect public health as lockdown restrictions eased over the summer.

This debate will not focus on the content of the original set of regulations, nor on the three sets of amending regulations previously voted into law. Instead, we will consider the three further amending statutory instruments due to be voted on today, which extend the requirement to wear a face covering to taxis and private hire vehicles and to a wider list of indoor settings; widen the scope to include staff within certain retail and hospitality settings; and implement a more stringent penalty regime.

The rising rates of infection meant that we had to put in place these additional measures to keep staff and members of the public safe, keep sectors of the economy

open and avoid the need for a second national lockdown. These amendments are a necessary response to the virus, which is why they were brought into effect under the emergency procedure, which was approved by Parliament so that we are able to act at pace to control the virus and save lives.

It is important that the Committee is able to scrutinise these amending regulations through this debate, which is taking place within the statutory 28 sitting days of the regulations coming into force. I urge the Committee to approve these amending regulations so that we are able to maintain our response to increasing incidence rates and enhance measures to help mitigate the risk of spreading the infection, thereby avoiding a second national lockdown.

People in this country have played, and continue to play, a vital role in helping us in our national effort to beat covid-19. The face coverings regulations give members of the public the confidence to visit public indoor spaces safely, and enhance protections for those working in these settings. However, the number of infections is rising, and we therefore need to take further action to help mitigate the spread of covid-19.

The Prime Minister addressed the House on 22 September to set out the series of additional measures being introduced to help reduce the spread of covid-19, including measures related to the use of face coverings in taxis and private hire vehicles, in hospitality settings and by staff in certain indoor retail and hospitality settings. I will now outline the purpose of the amending instruments to the face coverings regulations and the public transport regulations and then set out the policies and processes underlying their development, implementation, monitoring and review.

SI No. 1021 came into force on 23 September and increased the scope of the public transport regulations, so that members of the public must now wear a face covering in taxis and private hire vehicles. Many taxi and private hire vehicle passengers were already wearing face coverings, and some operators already had a policy of “no covering, no ride” for those who are not exempt.

To offer the greatest protection and additional clarity to members of the public and transport staff, we have introduced this legal requirement for passengers riding in taxis and private hire vehicles, to bring requirements in line with those already in place on the majority of the public transport network. Passengers have been required to wear a face covering on most modes of public transport since 15 June, and we have worked closely with operators in this sector to try to protect staff and passengers using that service.

These new measures make it mandatory for passengers riding in taxis and private hire vehicles to wear face coverings, thus increasing protection for drivers, who are providing a vital role in supporting key workers, transporting vulnerable passengers who are unable to use other public transport, and school children.

SIs Nos. 1026 and 1028 came into force on 24 September and increased the scope of the face coverings regulations. As a result of these amending instruments, members of the public must now wear a face covering when inside certain hospitality premises, such as bars, pubs and restaurants, except when eating or drinking. That means that people must wear a face covering when entering, leaving and moving around inside these premises.

Extending the face coverings regulations to these premises complements other targeted hospitality measures that came into force on 18 and 24 September to reduce the spread of covid-19 and to help keep hospitality venues open. Separate hospitality regulations stipulate that venues cannot accept bookings for a group of more than six persons, that there must be table service only, and that tables must be 2 metres apart or 1 metre plus others interventions, such as screens, with restrictions on opening hours for some businesses. Those measures are not part of this debate.

These amending instruments also extend the requirements to wear a face covering to staff and other workers working in indoor retail, leisure and hospitality settings, when they are open to the public and workers are likely to come into close contact with members of the public. These settings include shops, supermarkets, bars, pubs, restaurants, theatres, cinemas and social clubs. Further information on the settings where they apply will be included in the regulations and guidance published online. This requirement will not supersede any requirement for employees to wear respiratory protective equipment under existing health and safety legislation.

We are grateful for the steps that businesses continue to take, especially during this pandemic, to fulfil their legal obligations to keep staff safe and provide a safe working environment for them. These amending regulations do not negate those efforts or replace those obligations. Instead, extending the face coverings regulations to include staff enhances the protections offered to workers and customers in these settings, where people are more likely to come into close contact with others they do not regularly meet. This is a vital step in trying to minimise the spread of infection and to ensure that we can keep these premises open.

While face coverings are not a substitute for social distancing and hand hygiene, there is some evidence to suggest that, when used correctly, face coverings may have some benefit in reducing the likelihood of asymptomatic people with the infection passing it on to others. Mandating the wearing of face coverings for staff and the public in these premises will help reduce the risk of passing on the infection when in public areas, hence offering greater protection to those visiting these indoor spaces and to workers.

These regulations also make changes to the penalties in place for individuals who breach the rules under the face coverings regulations and the public transport regulations. The penalty for a first offence under the regulations will now be £200, reduced to £100 if paid within 14 days. Subsequent offences in relevant indoor places or on public transport will result in a fixed penalty amount, which doubles from £400 on each occasion, up to a maximum value of £6,400, with no reduction for early payment.

While we have seen the majority of people comply with the rules throughout the pandemic, we know that some continue to break the rules. These amendments will further deter non-compliance and help to tackle those who repeatedly breach the requirements to wear a face covering. It is important that we all continue to play our part in reducing the risk of transmitting the infection as we visit indoor places and take public transport. Furthermore, the police and Transport for

London will continue to use their usual four Es approach: explaining, engaging and encouraging, with enforcing only as a last resort.

I want to be absolutely clear that, while 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 amending regulations do not remove or make changes to the list of exemptions or reasonable excuses, other than to include an additional exemption under the face coverings regulations for performers acting in the course of their employment.

The principal face coverings regulations and the public transport regulations include a review clause, requiring a review of the need for the requirements, as amended, within six months. There is also a sunset clause in the principal face coverings regulations and the public transport regulations, so that they will expire at the end of 12 months after the day they came into force. These amending regulations do not change the timing of the review and sunset clause. 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 to communicating the policy as necessary.

We know that some of the rules put in place have become increasingly complex and difficult to enforce. That is why the Prime Minister is currently setting out how the Government will further simplify and standardise local rules by introducing a three-tier system of local covid alert levels in England. That is not the subject of the debate today, nor does it change the legal requirement to wear a face covering, but it should reassure the Committee that the Government continue to work with local leaders to tackle outbreaks with more targeted restrictions that are simple and constructive.

I am grateful to all hon. Members for their continued engagement in this challenging process and in scrutiny of the regulations. We will, of course, reflect on the debate to come. I commend the regulations to the Committee.

4.43 pm

**Justin Madders** (Ellesmere Port and Neston) (Lab): It is a pleasure to see you in the Chair, Dr Huq.

I thank the Minister for her detailed introduction. As she rightly pointed out, the laws regarding face coverings regulations are becoming increasingly convoluted, with amendment upon amendment. As she also pointed out, we are debating three instruments: one amends the wearing of face coverings in relevant places regulations for the third time, and the other two amend the wearing of face coverings in relevant places and on public transport regulations for the second and third times.

Before I talk about the regulations themselves, I will say a few words about the timing of the debate, because the timeline of these regulations is yet another example of the lack of transparency, strategy and accountability that has been the hallmark of this Government's approach to the coronavirus restrictions. Hon. Members will be aware that I have consistently raised concerns over the way regulations are introduced; that is the view not just of the Opposition, but of hon. Members across the House and in the other place. These regulations are too important not to be debated and given full and timely parliamentary scrutiny before they become law.

[Justin Madders]

Each of these regulations contains the same phrase at the start:

“the Secretary of State is of the opinion that, by reason of urgency, it is necessary to make this instrument without a draft having been laid before, and approved by a resolution of, each House of Parliament.”

I accept that, earlier on, that would have been the case, but that cannot really be said of these regulations. What is the urgency for this set of regulations? They appear to be correcting oversights and omissions in earlier regulations and increasing the level of fines for transgressions. Is the Government’s position that correcting their own mistakes is a good enough reason to override parliamentary scrutiny?

More than 70 health protection statutory instruments have been introduced in this manner since March, including seven on the wearing of face coverings, with no debate and no vote before coming into force. While we have acknowledged on many occasions how, in the early stages, there was a need to act quickly under emergency procedures—that may still be the case at times—more and more of the regulations being introduced do not meet the urgency test and are being introduced as such merely because the Government have slipped into a bad habit.

The Opposition have repeatedly offered to meet at short notice to debate and vote on regulations before they become law, because we believe that scrutiny, debate and challenge in the making of our laws mean that, in the long run, those laws will be more robust and more effective and achieve greater public acceptance if they are subject to parliamentary scrutiny and debate before coming into force. That is amply demonstrated today, because the regulations under consideration were laid on 22 and 23 September, just after the previous amendments to both principal regulations were debated in Committee on 21 September. We therefore debated amendments to regulations the day before further amendments to those regulations were made, which is a pretty messy and unsatisfactory way of dealing with things.

In the case of SI No. 1021, on the wearing of face coverings in taxis, it is hard to imagine that, on the Monday evening, the Government were not aware of their plan to lay further legislation the following morning. It is also hard to imagine a more convenient opportunity for the Government to bring draft regulations to the House for debate than when a Committee has been convened to debate regulations for the wearing of face coverings—they could be debated at the same time. Yet, as we know, that did not happen.

Furthermore, there was no mention of any new regulations that were forthcoming. It is a shame that the Minister for Patient Safety, Mental Health and Suicide Prevention, who represented the Government in those debates, is not in the Committee, because I would love to know whether she was aware that those regulations were coming the following day. In the case of SIs Nos. 1026 and 1028, I question whether the Government indeed intended to lay new regulations at all or whether they were laid as a direct result of questions and concerns raised by hon. Members in Committee on 21 September.

I have said before that a central part of controlling the virus is ensuring robust scrutiny of the regulations and their effectiveness. As a part of that, the Government

need to have a clear strategy and road map, not to be leaping around from decision to decision. In that context, the laying of three separate statutory instruments on the wearing of face coverings in the space of 24 hours rather suggests that they are lurching from one crisis to the next.

That is not just the Opposition’s view. The Secondary Legislation Scrutiny Committee said it is

“surprised that the Government is not doing more to coordinate such changes in a more structured way.”

It also pointed out:

“It is not helpful to have the law scattered between so many instruments.”

I agree.

When we first debated the lockdown regulations, I impressed on the Government the importance of the rules remaining clear and consistent as regulations changed over time. It is clear that that has not happened with regulations relating to the wearing of face coverings, from Ministers making contradictory statements at the outset about what should be worn and being unable to answer simple questions about the regulations, to the rules changing six times in two months. Who could blame the public for being confused?

If the Government want people to understand the rules and follow them, we need clear communication from Government and for the rules to make sense. That is particularly so on advice for wearing a face covering in enclosed spaces, given that it has not changed a great deal in that timeframe. I will come to that in more detail as we look at each of the regulations.

As we have heard, SI No. 1021 amends the previous regulations by extending the requirement to wear face coverings on public transport to those travelling in taxis and private hire vehicles. The explanatory memorandum states:

“Emerging data has demonstrated that taxi and private hire vehicle drivers”

are

“more likely to be vulnerable to Covid-19 due to being male (98% of drivers) or from an ethnic minority (53% of drivers).”

It also notes:

“The Office for National Statistics has identified drivers of taxis and private hire vehicles as high-risk...having higher rates of death involving Covid-19 (65.3 per 100,000) than bus and coach drivers (44.2) and van drivers (26.7).”

There is no doubt, therefore, that the regulations are needed. The issue I have is that those figures from the ONS are not new. They were published on 26 June, less than two weeks after the wearing of face coverings on public transport became law on 15 June. Why has it taken three months for these regulations to come forward?

I am sure that the Minister will point to the fact, as the explanatory memorandum does, that taxi drivers and private hire vehicle operators could, in principle, refuse carriage or make the wearing of a face covering a condition of travel. However, I do not think that that is a satisfactory answer, when it is not supported by scientific evidence about the level of risk. Of course, it is also the case that if that was the whole answer, there would be no need to introduce regulations now, as drivers could still refuse carriage. So I must ask whether this was, in fact, an oversight from the first set of regulations.

SI No. 1026 extends the requirement for the public to wear face coverings to theatres, restaurants, bars and public houses, except when seated to eat or drink, meaning that members of the public are therefore required to wear a face covering when entering, leaving and moving around each of these hospitality settings. It also requires employees and other persons providing services in public-facing areas of shops, restaurants and leisure or tourist attractions, such as museums, to wear a face covering, unless they are exempt.

This statutory instrument also amends the fixed penalty notice provisions to double the fixed penalty fines that are payable for any breaches of face coverings requirements, whether in a relevant place or on public transport, meaning that a first offence will now attract a fine of £200, rising to a maximum of £6,400.

I will come back to the issuing of fines later, because I first want to focus on the requirement for the public and workers to wear a face covering in the indoor settings set out on the extended list. As we heard from the Minister, the Prime Minister announced this change in the House of Commons on 22 September, which is a welcome departure from changes being announced by selected leaks to the media. The explanatory memorandum points to advice from the Scientific Advisory Group for Emergencies that

“there is evidence to recommend the use of cloth masks in certain higher-risk settings as a precautionary measure where masks could be at least partially effective. These settings would be enclosed spaces where social distancing is not possible to maintain consistently, creating a risk of close social contact with multiple parties the person does not usually meet.”

The explanatory memorandum further says:

“Mandating the use of face coverings in additional hospitality settings and extending the requirement to staff and other workers working in customer facing roles, when used alongside other measures, therefore offers a reasonable protective measure to reduce the risk of infection on contamination by a virus”.

As in previous debates regarding the wearing of face coverings, my question is this: given that the Government have been advising the public since 11 May to wear face coverings in enclosed spaces where they might find it difficult to maintain social distancing and might come into contact with people who they would not normally meet, and given that the scientific evidence does not appear to have changed in that time, why was this requirement not extended to staff when hospitality venues first reopened on 4 July, or when a face covering became mandatory in shops and transport hubs on 24 July or in relevant places on 8 August and 22 August?

What are the reasons for not introducing the requirement to wear a face covering more uniformly across indoor settings at the same time? Would that not have reduced confusion over where and when face coverings were required or not required? Was it that scientific advice changed during July, August and September about the places where face coverings could be effective, or was there another reason why those changes were not made at that time?

In the debates about previous regulations on 14 and 21 September, we asked for an explanation as to why the wearing of face coverings regulations did not apply to those who work in shops, restaurants, pubs and other relevant places. From my perspective, I certainly did not get a particularly convincing answer at the time. It is probably overstating things to say that those questions

in Delegated Legislation Committees had the effect of changing Government policy within 24 hours; that trick seems to be the preserve of the likes of Marcus Rashford. However, the point is that if we had debated these issues at an early juncture, before they became law, there might have been a different outcome, because these issues might have been picked up earlier and we might have been able to have fewer sets of statutory instruments. That really shows the importance of debate in providing scrutiny and challenge to ensure that laws are effective and robust. As Members of this House and some Members in the other place have rightly said, the delays and the piecemeal introduction of regulations have not only caused confusion over where people should wear face coverings, but cause people to lose trust in the Government’s message.

I also want to ask about the terminology used in regulation 2(4), which states that staff must wear a face covering if they come or are

“likely to come within close contact of any member of the public.”

The explanatory note describes this as being in “close proximity”. Are these effectively the same thing, and is the Minister able to put a figure on that in metres? Are we talking about the 2 metre rule here, 1 metre plus or some other measurement? I would be grateful for some clarity on that.

I also want to ask about the list of places where exemptions no longer apply, contained in schedule 3, added by regulation 2(11). It is a long list, but not comprehensive, so I have a few questions about what is not included.

Paragraph 1 refers to:

“A shop, but not including premises providing legal or financial services.”

What is the reason for not including legal or financial services? They are defined in paragraph 5 of the list:

“Banks, building societies, credit unions, short-term loan providers, savings clubs and undertakings which by way of business operate a currency exchange office, transmit money (or any representation of money) by any means or cash cheques which are made payable to customers.”

To me, that seems to be a fairly comprehensive list of places that might provide financial services, but obviously some places are not covered. I will be grateful if the Minister sets out what they are and the reason for their exclusion.

Questions arise about two other premises. First, estate agents do not appear to be in the list; is there a reason for that, or are they included in the definition of a shop? Secondly—a category close to all our hearts—the premises of Members of Parliament are not included. Is there no legal requirement for members of the public to wear face coverings if they enter a Member of Parliament’s constituency office? I appreciate that separate guidance has been issued by the House authorities, but that is only guidance, not the law. Anything the Minister can say on that will be appreciated. Is there a plan to extend the rule to all workplaces? I understand that over the weekend the British Medical Association made that suggestion. It would certainly put an end to the dizzying list of exemptions.

The biggest omission from the list is of course pubs, which leads me on to SI No. 1028. Those regulations were laid on the same day as SI No. 1026, seemingly to

[Justin Madders]

correct on omission from that instrument, so that employees in pubs are now also required to wear face coverings. That was clearly an oversight, and a necessary one at that, and it highlights the much wider problem of the worryingly high number of instruments being laid to correct omissions. The Secondary Legislation Scrutiny Committee has noticed a recent increase in the number of correcting instruments, with several coronavirus instruments having to be revoked or amended immediately after laying due to errors, including SI No. 1028, which was made on the same day to correct the omission in SI No. 1026. In fact, during this Session so far, 8.5% of statutory instruments have had to be corrected or replaced—well above the 5% benchmark that is regarded as acceptable. In the period from July to September, that figure rises to 12.5%. That is an alarmingly high rate, which led the Committee to remind Departments to check all instruments thoroughly before laying them before Parliament. That should not need to be said, but here we are having to say it.

As I said at the start, it is no wonder people are confused when laws are made with mistakes in them and have to be changed rapidly as a result. How is anyone supposed to follow and comply with the rapidly changing coronavirus regulations in such circumstances? We are talking about rules that carry with them significant financial penalties. It is simply not good enough for omitted provisions continually to be slotted in afterwards.

I have a few more questions about the regulations. The explanatory memorandum states:

“The impact on business, charities or voluntary bodies is expected to be positive. Requiring staff members and other workers to wear face coverings in public houses may give members of the public confidence to visit these premises which may increase visitors to these settings bringing benefit to the business.”

Of course, we all want our hospitality sector to thrive, but it seems rather odd to debate a measure that might encourage people to return to pubs on the same day that the Prime Minister is closing some down, so I want to press the Minister on that point. Does that statement in the explanatory memorandum mean that the measure was introduced purely for economic reasons, with no health benefit at all? I appreciate that she is not a Health Minister, so she might not be able to answer that, but I point out that the note goes on:

“The policy may also offer added protection to employees working in these settings, in addition to the existing mitigations that have been put in place by businesses already.”

Those protections would still have been available had the regulations been introduced at an earlier date.

Furthermore, the Minister dealing with previous sets of regulations, the Minister for Patient Safety, Mental Health and Suicide Prevention, wrote to me after an earlier debate on face coverings and why the rules requiring the wearing of them were not brought in at the same time as retail establishments reopened. She told me:

“As lockdown restrictions began to ease across the country, we felt it necessary to mandate the use of face covering in some indoor settings such as shops, supermarkets and indoor transport hubs. As shops reopened, we anticipated an increase in footfall and introduced these measures to provide some reassurance to people and help them benefit from some small additional protection that face coverings can offer when it is not always possible to socially distance.”

It seems from the reply that the question of generating confidence for people when they visit shops had already been considered, which is why the original regulations came into force, but why was the issue of staff wearing face coverings not considered at the same time?

I turn to enforcement. As I stated previously, the Opposition support measures against the very few people who frequently and repeatedly break the rules, which are there to protect us all. As we have heard, the SI No. 1026 amends the previous regulations so that the fine imposed for a first offence under the face covering regulations is now set at £200, and continues to double at each subsequent offence to a maximum of £6,400, in line with penalties for other national coronavirus regulations. The explanatory memorandum says

“these amendments will further deter noncompliance and tackle those who repeatedly breach the requirement to wear a face covering”,

but will they? As I said in previous debates, compliance is important, but just setting out a schedule of fines is not enough. We need to understand how realistic it is that the fines will be enforced.

First, will the Minister say why those rules were introduced with such urgency? The penalty already exists; the regulations simply increase the amount an individual has to pay. That suggests there was an urgent need to increase the level of penalty to improve compliance. Is that the case, and can she produce any evidence in support of that? It is not the first time that penalties for non-compliance have been increased without any detail or explanation of why urgent action was required. These are bad habits.

On enforcement of fines for breaching the rule of six the chair of the West Yorkshire Police Federation said that officers simply cannot enforce new restrictions, and the chair of the Police Federation said:

“We just don’t have the resources.”

That was evidenced by the figures, which show that many police forces have not issued fines for breaches of regulations in the first few weeks. Over the weekend, new data showed that there are already significant differences across the numbers of all fines issued by police forces under coronavirus regulations. Up to 21 September, some police forces have issued more than 1,000 fines, whereas others have issued fewer than 100. Of those fines, only 89 have been given out by police for failing to wear a facemask; that was by 11 out of 45 forces in England and Wales.

I am sure that most hon. Members can point to a great number of concerns raised by constituents about people not wearing masks over the past few months. What does the Minister have to say about three quarters of police forces not having issued any fines? We see breaches of the rules every day—not just by the Prime Minister’s father—which rather suggests that there is no capacity to enforce the regulations, which is a dangerous place to be. If people see others getting away with it, they might conclude that they too do not need to comply with the rules.

How the police treat breaches should not be a postcode lottery, and compliance with the law should not depend on where people live. Of course, none of the 89 fines was issued under the regulations that we are debating, as they came into force a few days after the report. Can the Minister give us an update on the number of fines

issued under these regulations and all the face covering regulations? Why does she think there is such disparity in enforcement across various police forces? Liberty has said the disparity was inevitable, because the rules had been communicated chaotically. It is hard to disagree with that, but does the Minister concur? Can she outline what steps the Government will take to ensure that impending changes are communicated both to those who have to comply with them and to those who have to enforce them?

A review by the Crown Prosecution Service has so far uncovered 63 unlawful charges under the health protection regulations, and the new figures have unsurprisingly led to further calls for a review of fines being given out. Are the Government also considering that? We also know that the Joint Committee on Human Rights has voiced significant concerns about the fines that have been given out, warning that black, Asian and minority ethnic people are being disproportionately penalised. What steps are the Government taking in respect of that concern?

Let us be clear: we are not criticising the police. We know that they have an incredibly difficult job in this crisis. We know the real pressures they face due to the reduction in numbers they have faced over the past decade. However, they cannot continue to be handed increased responsibilities without sufficient resources to enable them to carry out those duties. Last week, in the debate on the rule of six, I asked whether the Government would set out what additional resources would be available to police to ensure compliance, as the number of enforceable restrictions increases. I am still waiting for an answer. It is simply not good enough. I hope that we shall hear a little more today. We shall not oppose the regulations, but there are many questions that remain unanswered, which I hope the Minister will address.

5.5 pm

**Rachel Maclean:** It is a great pleasure to respond to the questions put to me by the Opposition spokesman, the hon. Member for Ellesmere Port and Neston. I thank him for his detailed questions and will of course address the points he made.

The hon. Gentleman spoke about the urgency with which we brought in the regulations. He will know that the Public Health (Control of Disease) Act 1984 provides powers for us to make a statutory instrument in exactly these circumstances. We face an unprecedented global health emergency. We must act with speed and we cannot hold up urgent regulations that are needed to save lives. We have been clear at every step that we will consult Parliament and hold votes where possible. In addition, the Government provide regular opportunities to question Government scientific advisors, and Members are given opportunities to access data about their own constituencies. The hon. Gentleman will also know that the Health Secretary has made a commitment that, for significant national measures that affect the whole of England or the UK, we will consult Parliament, where possible, and hold votes.

**Justin Madders:** I appreciate what the Minister says, and of course I have no difficulty with certain regulations being introduced in this way, but I asked specifically about increasing the level of fines from previous regulations. What was so urgent about that that it needed to be done without following proper parliamentary processes?

**Rachel Maclean:** I am happy to come on to that. I have listed the hon. Gentleman's points in the order he put them, and I will come on to it in due course.

The hon. Gentleman mentioned the high level of deaths among car, van and taxi drivers. He will know that when we first began to bring in regulations about the transport system and face coverings, we provided guidance to the taxi sector. Many people were of course already wearing face coverings when taking taxis, and many drivers were also doing so. Many operators had a "no face covering, no ride" policy, to keep their passengers safe. Further engagement with the sector made it clear that it was requesting greater certainty. The amending SI has therefore been introduced to create a legal requirement for passengers, in line with the majority of the public transport network.

The hon. Gentleman asked why staff in hospitality settings were not originally included. The rising rate of infection has meant that the Government have had to consider additional measures. All measures are kept under review, as he knows. As for the premises he asks about, I assure him that post offices, banks, building societies, high street solicitors, accountants, credit unions, short-term loan providers, saving clubs and money service businesses are included in the regulations, as are estate agents and letting agents.

The wearing of face masks on the premises of the House of Commons and in the House is not in the scope of this debate. It is a matter for Mr Speaker, who I understand has strongly recommended that we wear face coverings while we are on the estate.

**Justin Madders:** I think the Minister has misunderstood the scope of my question. It was actually about Members' constituency offices, which is obviously slightly different from the parliamentary estate.

**Rachel Maclean:** Forgive me. That is not a matter for this debate, but it may be of interest to each individual Member of Parliament that they are required to follow the covid-secure guidelines within those premises, as are other businesses. That guidance is set out clearly. The hon. Gentleman asked whether it is planned to extend the provisions to other workplaces. Again, that is not in the scope of the debate, so I shall not comment on it now.

Before I go on to talk about fines, I want to make the point that most people are following the rules, and we are extremely grateful. We know that there are very high levels of compliance up and down the country in every constituency. It is obviously a challenge for people to comply with the rules, but we know that they are making those sacrifices to keep their communities safe.

On the enforcement regime, which the hon. Gentleman mentioned, we are making the penalty more stringent. Again, we know that most people will comply, but we are seeing a rising rate of infection. It is important that we tackle this now so that we are able to keep the hospitality sector open in places where social distancing might be more difficult in all scenarios. The number of fixed penalty notices does not reflect a lack of enforcement, because the police, as I mentioned, use the four Es approach. A fine will always be a last resort after all other measures have failed.

[Rachel Maclean]

I can provide the hon. Gentleman with some data on the fines. As of 1 October 2020, officers stopped 159,286 people and prevented 7,526 passengers from boarding public transport services owing to non-compliance with face-covering regulations; 5,677 people have been ejected from services or directed to leave, and 533 fixed penalty notices were reported.

Finally, on the equality impact assessment, the Government have taken steps with every single regulation that has been brought in to ensure that the equality impacts have been considered. With that, Dr Huq, I thank hon. Members for their contributions to this important debate.

The Government have always been clear that their highest priority in managing this national crisis is protecting our public and saving lives. I am satisfied that the requirements imposed by the regulations as amended and the enforcement powers given to the police and Transport for London are necessary, reasonable and proportionate, given the urgent need to minimise the spread of the virus and offer maximum protection to members of the public and staff. Our guidance has consistently set out to the public that to protect themselves they must continue to follow social distancing measures, wash their hands regularly, and adhere to the isolation guidance.

Current Government guidance states that people should also wear a face covering in enclosed public spaces, where social distancing is more difficult to maintain, and where people might come into contact with others they do not normally meet. The debate today has provided an opportunity for us in the Government—

**Justin Madders:** I do not think the Minister has addressed the question about why an increase in the level of fines had to be introduced in an urgent way. What necessitated such action?

**Rachel Maclean:** In line with all our policies and decisions, a decision was taken to protect public health and to maintain the balance between protecting public

health, allowing enforcement measures to be introduced and allowing some of the hospitality venues and the transport system to stay open. I am grateful for the contributions that have been made during this debate. Parliamentary scrutiny is a vital part of the regulation-making process. I am pleased to have been able to set out the content for these amending regulations to the Committee. I hope the Committee has found the debate informative and that it will join me in supporting the amending regulations.

*Question put and agreed to.*

*Resolved,*

That the Cttee has considered the Health Protection (Coronavirus, Wearing of Face Coverings in a Relevant Place and on Public Transport) (England) (Amendment) (No. 3) Regulations 2020 (S.I., 2020, No. 1026).

**HEALTH PROTECTION (CORONAVIRUS,  
WEARING OF FACE COVERINGS IN A  
RELEVANT PLACE) (ENGLAND)  
(AMENDMENT) (NO. 3) REGULATIONS 2020**

*Resolved,*

That the Cttee has considered the Health Protection (Coronavirus, Wearing of Face Coverings in a Relevant Place) (England) (Amendment) (No. 3) Regulations 2020 (S.I., 2020, No. 1028).—*(Rachel Maclean.)*

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

*Resolved,*

That the Cttee has considered the Health Protection (Coronavirus, Wearing of Face Coverings in a Relevant Place and on Public Transport) (England) (Amendment) (No. 2) Regulations 2020 (S.I., 2020, No. 1021).—*(Rachel Maclean.)*

5.16 pm

*Committee rose.*



