



FACEMASKS Guidance Update

With only 12 hours to go before the wearing of face coverings in shops became a legal requirement the Government finally published the regulations governing the requirement to wear face coverings in England as well as their detailed guidance.

The information in this note is based on information released by the Government as at 23 July 2020.

What is the requirement at law?

"No person may, without reasonable excuse, enter or remain within a relevant place without wearing a face covering" (s3(1) The Health Protection (Coronavirus, Wearing of Face Coverings in a Relevant Place) (England) Regulations 2020)

What is a reasonable excuse?

A person has a reasonable excuse include those where—

- they cannot put on, wear or remove a face covering—
 - because of any physical or mental illness or impairment, or disability (within the meaning of section 6 of the Equality Act 2010(6)), or
 - without severe distress;
- they are accompanying, or providing assistance to, another person who relies on lip reading to communicate
- they remove their face covering to avoid harm or injury, or the risk of harm or injury, to themselves or others;
- they are entering or within a relevant place to avoid injury, or to escape a risk of harm, and do not have a face covering with them;
- it is reasonably necessary for them to eat or drink, and they remove their face covering to eat or drink;
- they have to remove their face covering to take medication;
- they are required by a person responsible for a relevant place or their employee acting in the course of their employment, to remove their face covering in order to verify their identity;
- they are asked, within a pharmacy to remove their face covering in order to assist in the provision of healthcare or healthcare advice.
- they are asked by a relevant person to remove their face covering.

What is a relevant place?

The government has chosen a very wide definition of relevant place, preferring instead to exclude premises from the definition. As such face coverings are required to be worn in

- Any shop,
- Enclosed shopping centres,
- 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
- Post Office

face coverings are not required to be worn in

- restaurants with table service, including restaurants and dining rooms in hotels or members' clubs,
- bars, including bars in hotels or members' clubs,
- public houses.
- any area within or adjacent to a shop where seating or tables are made available by that business for the consumption of food and drink on the premises by customers of that business
- public libraries and public reading rooms.

There are also exceptions to which these regulations do not apply

- Premises providing professional, legal or financial services.
- Premises (other than registered pharmacies) providing wholly or mainly medical or dental services, audiology services, chiropody, chiropractic, osteopathic, optometry or other medical services including services relating to mental health.
- Veterinary services.
- Cinemas.
- Theatres.
- Museums, galleries (other than for the sale or hire of artwork), aquariums, indoor zoos or visitor farms, or other indoor tourist, heritage or cultural sites.
- Nightclubs.
- Dance halls.
- Bingo halls.
- Concert halls, exhibition halls or other public hall.
- Conference and exhibition centres.
- Indoor fitness studios, gyms, dance studios, leisure centres, indoor swimming pools, water parks, bowling alleys, funfairs, theme parks, amusement arcades, indoor soft play areas, skating rinks or other premises for indoor sports, leisure, adventure or recreation activities.
- Indoor sports arenas or stadia.
- Casinos.
- Hotels and hostels.
- Spas.
- Nail, beauty, hair salons and barbers.

- Tattoo and piercing parlours.
- Massage parlours.
- Storage and distribution centres.
- Funeral directors.
- Photography studios.
- Auction houses.

Is there anyone to whom this does not apply?

Yes. There is no requirement to wear a face covering if you are

- a child who is under the age of 11;
- a person responsible for a relevant place or an employee of that person acting in the course of their employment;
- any other person providing services in the relevant place under arrangements made with the person responsible for a relevant place;
- an employee of an operator of a public transport service acting in the course of their employment;
- a person who enters or is within a transport hub in a vehicle (other than a vehicle being used for the provision of a public transport service);
- a constable or police community support officer acting in the course of their duty;
- an emergency responder (other than a constable) acting in their capacity as an emergency responder;
- a relevant official acting in the course of their employment or their duties.

Details of the legislation and guidance can be found at

Legislation: <https://www.legislation.gov.uk/ukxi/2020/791/contents/made>

Guidance: <https://www.gov.uk/government/publications/face-coverings-when-to-wear-one-and-how-to-make-your-own/face-coverings-when-to-wear-one-and-how-to-make-your-own#:~:text=Face%20coverings%20are%20required%20to,service%2C%20bars%2C%20and%20pubs.>

In Conclusion

These regulations and guidance provide the legal basis for the current rules in England. With the exception of auction houses and some areas of petrol forecourts where food and drink may be served for consumption on the premises, customers in all other RMI members are required to wear a face covering from 24 July 2020.

Whilst members remain under a duty to take steps to protect the health and safety of their employees, and so face coverings and face shields may be required on this basis, these regulations do not require staff to wear face coverings and so no business or employee should be fined under these Regulations.

What remains unclear is what steps will be taken to enforce these regulations. Enforcement remains the responsibility of the police. Different forces have indicated that they would take different approaches. What is clear is that there is no requirement for RMI members to act in the stead of the police. Some consideration should therefore be given as to how any one business will react to inform members of the public of the requirement to wear face coverings, encourage the wearing of face coverings and what steps, if any, will be taken where members of the public refuse to comply with their requirements.

This advice is general in nature and it will need to be tailored to any one particular situation. Furthermore, it is important to note that the situation is very fluid and Government guidance is changing daily. We are keeping our ears close to the ground for RMI members who are all, understandably, desperate for more certainty. Should you find yourself in the situation above, contact us at any stage for advice and assistance as appropriate.

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