

Subsidiary Legislation made under s.11.

**Civil Contingencies Emergency (Coronavirus) (Masks in Public Areas)
(No.5) Regulations 2020**

LN.2020/470

Commencement **19.12.2020**

Amending
enactments

Relevant current
provisions

Commencement
date

ARRANGEMENT OF REGULATIONS.

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In exercise of the powers conferred on her by section 11 of the Civil Contingencies Act 2007, and all other enabling powers, the Minister with responsibility for Civil Contingencies, acting with the consent of the Chief Minister, has made these Regulations-

Title.

1. These Regulations may be cited as the Civil Contingencies Emergency (Coronavirus) (Masks in Public Areas) (No.5) Regulations 2020.

Commencement.

2. These Regulations come into operation on 19th December 2020 and cease to have effect on 16th January 2021.

Statement in accordance with section 11(2) of the Act.

3. The Minister declares that-

- (a) there is an outbreak of Coronavirus which on the 11th March 2020 the World Health Organisation (WHO) declared to be a pandemic; at the time of the publication of the Civil Contingencies Emergency (Coronavirus) (Masks in Public Areas) (No.4) Regulations 2020 there were more than 56,261,952 confirmed cases globally and more than 1,349,506 people had died; at the time of the publication of these Regulations there are more than 73,275,900 confirmed cases globally and more than 1,650,300 people have died; Coronavirus has, to date, reached 235 countries, areas or territories, and it is therefore necessary to take measures to prevent, mitigate and control the spread of Coronavirus in Gibraltar;
- (b) the conditions in section 12 of the Act are met;
- (c) these Regulations contain only provisions which are appropriate for the purpose of preventing, controlling or mitigating an aspect or effect of the emergency in respect of which the Regulations are made; and
- (d) the effect of these Regulations is in due proportion to that aspect or effect of the said emergency.

Interpretation.

4.(1) In these Regulations-

“a person responsible for a premises” includes the owner, proprietor, and manager of that premises;

“Coronavirus” means SARS-CoV-2 or Covid-19;

“mask” means a covering of any type which covers a person’s nose and mouth;

“public” includes a section of the public;

“school” has the same meaning as in the Education and Training Act;

“work” includes voluntary work.

(2) For the purposes of these Regulations, premises are enclosed if they–

- (a) have a ceiling or roof; and
- (b) except for doors, windows and passageways, are wholly enclosed either permanently or temporarily.

(3) For the purposes of these Regulations, premises are substantially enclosed if they have a ceiling or roof but there is–

- (a) an opening in the walls; or
- (b) an aggregate area of openings in the walls,

which is less than half of the area of the walls, including other structures that serve the purpose of walls and constitute the perimeter of the premises.

(4) In determining the area of an opening or an aggregate area of openings for the purposes of subregulation (3), no account is to be taken of openings in which there are doors, windows or other fittings that can be opened or shut.

(5) In these regulations “roof” includes any fixed or moveable structure or device which is capable of covering all or part of the premises as a roof, including, for example, a canvas awning.

Requirement to wear a mask in enclosed or substantially enclosed premises.

5.(1) Subject to subregulation (2), a person must wear a mask in enclosed or substantially enclosed premises which are open to the public, unless that person has a reasonable excuse for not doing so.

(2) Where enclosed or substantially enclosed premises are used as a place of work–

- (a) a person who is a visitor to those premises; and

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(b) a person who attends to a person referred to in paragraph (a),

must wear a mask, unless that person has a reasonable excuse for not doing so.

(3) Premises are “open to the public” if the public or a section of the public has access to them, whether by invitation or not, and whether on payment or not.

Exemptions.

6.(1) The requirements in regulation 5 do not apply—

(a) to any premises referred to in the Civil Contingencies Emergency (Coronavirus) (Businesses and Restrictions) (No.8) Regulations 2020;

(b) to any school;

(c) to any premises that is the subject of an exemption granted by the Director of Public Health under regulation 7.

(2) Where no other provision is made by rules of court these Regulations apply to court proceedings, save that a magistrate or judge shall have a discretion in their individual courtrooms to allow persons, including themselves, to remove their face coverings to the extent necessary for the conduct of proceedings.

Exemptions granted by the Director of Public Health.

7.(1) A person responsible for a premises may be granted an exemption to these Regulations by the Director of Public Health.

(2) An exemption granted under subregulation (1)—

(a) must be in writing;

(b) must specify the duration of the exemption; and

(c) may contain conditions set by the Director of Public Health.

(3) Any conditions in an exemption granted by the Director of Public Health under subregulation (1) may be varied, added to or removed.

(4) Failure to comply with the conditions referred to in subregulation (2)(c) constitutes grounds for the withdrawal of an exemption granted by the Director of Public Health.

Requirement to wear a mask in an outdoor area.

8.(1) A person must wear a mask when they are in an outdoor area unless that person—

- (a) is in a vehicle;
- (b) is carrying out either of the following exercise activities—
 - (i) running; or
 - (ii) cycling; or
- (c) has a reasonable excuse for not doing so.

(2) For the purposes of this regulation, an outdoor area does not include an outdoor area that is part of a private dwelling.

Applicability and reasonable excuses.

9.(1) The requirements in regulations 5 and 8 do not apply—

- (a) to a child who is under the age of 11;
- (b) to a police officer acting in the course of his duty;
- (c) to an emergency responder acting in their capacity as an emergency responder.

(2) For the purposes of regulations 5 and 8 the circumstances in which a person (“P”) has a reasonable excuse include those where—

- (a) P cannot put on, wear or remove a mask because of any physical or mental illness or impairment or disability;
- (b) P is travelling with, or providing assistance to another person (“B”) and B relies on lip reading to communicate with P;
- (c) P is travelling to avoid injury, or to escape a risk of harm, and does not have a mask with them.

(3) In subregulation (1)(c) “emergency responder” means a person employed for the purposes of providing, or engaging to provide, medical, ambulance or paramedic services.

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Offences and penalties.

10. A person who contravenes the provisions of these Regulations commits an offence and is liable on summary conviction to a fine up to level 5 on the standard scale.

Fixed penalty notice.

11.(1) An authorised person may issue a fixed penalty notice to anyone that the authorised officer reasonably believes has committed an offence under these Regulations.

(2) The fixed penalty notice shall offer the person to whom it is issued the opportunity of discharging any liability to conviction for the offence by payment of a fixed penalty to the clerk of the Magistrates' Court.

(3) Where a person is issued with a notice under this regulation in respect of an offence-

- (a) no proceedings may be taken for the offence before the end of the period of 28 days following the date of the notice;
- (b) the person may not be convicted of the offence if the person pays the fixed penalty before the end of that period.

(4) A fixed penalty notice must-

- (a) give reasonably detailed particulars of the circumstances alleged to constitute the offence;
- (b) state that proceedings cannot be brought against a person for the offence to which the notice relates before the end of the period of 28 days following the date of the notice;
- (c) specify the amount of the fixed penalty;
- (d) state the address of the clerk of the Magistrates' Court to whom the fixed penalty may be paid.

(5) The amount specified under subregulation (4)(c) shall be £100.

(6) In any proceedings, a certificate which-

- (a) purports to be signed by or on behalf of the clerk of the Magistrates' Court; and

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- (b) states that payment of a fixed penalty was or was not received by a date specified in the certificate,

shall be conclusive evidence of the facts stated.

(7) In this regulation “authorised person” means-

- (a) a police officer;
- (b) the Chief Environmental Health Officer, an Environmental Health Officer or an Assistant Environmental Health Officer.

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Dated: 18th December 2020.

S SACRAMENTO,
Minister with responsibility for Civil Contingencies.

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EXPLANATORY MEMORANDUM

These Regulations amend and replace the Civil Contingencies Emergency (Masks in Public Areas) (No.5) Regulations 2020.