

L.N. 143 of 2020

**Prevention and Control of Disease (Wearing of Mask)
(Public Transport) Regulation**

(Made by the Chief Executive in Council under section 8 of the
Prevention and Control of Disease Ordinance (Cap. 599))

1. Commencement

This Regulation comes into operation on 15 July 2020.

2. Interpretation

(1) In this Regulation—

mask (口罩) includes any covering designed or made to be worn over the nose and mouth to provide the wearer protection against infections or air pollution;

MTR paid area (港鐵已付車費區域) means a paid area as defined by by-law 2 of the Mass Transit Railway By-laws (Cap. 556 sub. leg. B);

public transport carrier (公共交通工具) means a conveyance mentioned in the Schedule;

specified disease (指明疾病) means the coronavirus disease 2019 (COVID-19), which is specified in item 8A of Schedule 1 to the Ordinance;

specified period (指明期間) means a period specified under section 3(1).

(2) For the purposes of this Regulation—

- (a) a reference to a person wearing a mask is a reference to the person wearing a mask over and covering the person's nose and mouth, with the mask touching the person's nose, chin and cheeks; and

- (b) a reference to a person not wearing a mask is to be construed accordingly.

3. Period specified by Secretary for Food and Health

- (1) For preventing, protecting against, delaying or otherwise controlling the incidence or transmission of the specified disease, the Secretary for Food and Health may, by notice published in the Gazette, specify a period for the purposes of section 4(1).
- (2) Any period specified under subsection (1) must not exceed 14 days.
- (3) Any notice published under subsection (1) is not subsidiary legislation.

4. Requirement to wear mask in public transport carrier and MTR paid area during specified period

- (1) During a specified period, a person must wear a mask at all times when the person is—
 - (a) boarding or on board a public transport carrier; or
 - (b) entering or present in an MTR paid area.
- (2) However, subsection (1) does not apply to—
 - (a) a person who is under the age of 2;
 - (b) a person who has lawful authority or reasonable excuse for not wearing a mask; and
 - (c) a person who is—
 - (i) boarding or on board a public transport carrier that is not in service; or
 - (ii) entering or present in an MTR paid area that is not open to the public.

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- (3) Without limiting the scope of the reasonable excuse referred to in subsection (2)(b), a person has a reasonable excuse for not wearing a mask if—
- (a) the person cannot put on, wear or remove a mask—
 - (i) because of any physical or mental illness, impairment or disability; or
 - (ii) without severe distress;
 - (b) the person is accompanying, or providing assistance to, another person who relies on lip reading to communicate with the person;
 - (c) it is reasonably necessary for the person not to wear a mask in order to avoid any physical harm to the person or others;
 - (d) it is reasonably necessary for the person to board or be on board a public transport carrier, or enter or be present in an MTR paid area, in order to avoid any physical harm to the person but the person does not have a mask;
 - (e) the person is not wearing a mask in order to do any of the following acts (only if the act is lawful and reasonably necessary in the circumstances)—
 - (i) eat or drink;
 - (ii) take medication;
 - (iii) maintain personal hygiene; or
 - (f) the person is required by a public officer (who is performing a function of the officer) to remove a mask the person is otherwise wearing.

5. Powers exercisable if mask not worn

- (1) If an authorized person reasonably considers that another person (*that person*) is, in contravention of section 4(1), not wearing a mask, the authorized person may—
 - (a) if that person is boarding a public transport carrier or entering an MTR paid area—deny boarding to the carrier, or entry to the area, to that person; or
 - (b) if that person is on board a public transport carrier or present in an MTR paid area—
 - (i) require that person to wear a mask; and
 - (ii) if that person fails to comply with the requirement made under subparagraph (i)—require that person to disembark from the carrier or leave the area.
- (2) If a person fails to comply with a requirement made under subsection (1)(b)(ii) by a police officer, the police officer may—
 - (a) remove the person from the public transport carrier or MTR paid area; and
 - (b) use reasonable force in exercising the power under paragraph (a).
- (3) An authorized person may exercise a power under subsection (1)(b) or (2) only if the authorized person reasonably considers it necessary and proportionate to ensure compliance with section 4(1).
- (4) A person is not entitled to a refund of, or to deny the liability to pay, any transportation fee only because the person is, under subsection (1)(b) or (2)—
 - (a) required to disembark, or removed, from a public transport carrier; or

- (b) required to leave, or removed, from an MTR paid area.
- (5) The exercise of a power under subsection (1) by a taxi driver in good faith does not by itself constitute a contravention of regulation 37(a), (b) or (c) of the Road Traffic (Public Service Vehicles) Regulations (Cap. 374 sub. leg. D).

(6) In this section—

authorized person (獲授權人士)—

- (a) in relation to a public transport carrier, means—
 - (i) a police officer;
 - (ii) the driver, conductor, inspector, ticket collector, manager or owner of the carrier; or
 - (iii) a person authorized by the manager or owner of the carrier for the purposes of this section; and
- (b) in relation to an MTR paid area, means—
 - (i) a police officer;
 - (ii) the MTR Corporation Limited; or
 - (iii) a person authorized by the Corporation for the purposes of this section;

manager (管理人), in relation to a public transport carrier, means a person who is responsible for the management or is in charge or control of the carrier;

taxi driver (的士司機) means the driver of a taxi within the meaning of the Road Traffic Ordinance (Cap. 374);

transportation fee (交通費) means—

- (a) in the case of subsection (4)(a)—any money paid or charged for the carriage of the person by the public transport carrier; and

- (b) in the case of subsection (4)(b)—any money charged by the MTR Corporation Limited when the person leaves the MTR paid area (whether or not for the carriage of the person).

6. Offences

- (1) A person who contravenes section 4(1) commits an offence and is liable on conviction to a fine at level 2.
- (2) A person who, without reasonable excuse, fails to comply with a requirement made under section 5(1)(b)(ii) commits an offence and is liable on conviction to a fine at level 2.

7. Expiry

This Regulation expires at midnight on 14 October 2020.

Schedule

[s. 2]

Public Transport Carriers

1. A public bus operated under a franchise granted under the Public Bus Services Ordinance (Cap. 230)
2. A public bus operated under a passenger service licence for the purposes of the following service under the Road Traffic Ordinance (Cap. 374)—
 - (a) a tour service;
 - (b) an international passenger service;
 - (c) a hotel service;
 - (d) a student service;
 - (e) an employees' service;
 - (f) a residents' service;
 - (g) a multiple transport service; or
 - (h) any other service approved by the Commissioner for Transport
3. A public light bus within the meaning of the Road Traffic Ordinance (Cap. 374)
4. A school private light bus within the meaning of the Road Traffic Ordinance (Cap. 374)

5. A private bus, or a private light bus, within the meaning of the Road Traffic Ordinance (Cap. 374) operated by The Hong Kong Society for Rehabilitation, or by Kwoon Chung Inclusive and Accessible Transport Services Company Limited, for operating the Rehabus
6. A taxi within the meaning of the Road Traffic Ordinance (Cap. 374)
7. A train operated on the Mass Transit Railway under the Mass Transit Railway Ordinance (Cap. 556)
8. A train operated on the KCRC Railway within the meaning of section 2(1) of the Mass Transit Railway Ordinance (Cap. 556)
9. A light rail vehicle operated on the North-west Railway within the meaning of section 2(1) of the Mass Transit Railway Ordinance (Cap. 556)
10. A car used on the tramway under the Tramway Ordinance (Cap. 107)
11. A tramcar used on the tramway under the Peak Tramway Ordinance (Cap. 265)
12. A cable car within the meaning of the Tung Chung Cable Car Bylaw (Cap. 577 sub. leg. A)
13. Those parts of a ferry vessel operated under a franchise or a licence granted under the Ferry Services Ordinance (Cap. 104) opened, kept or used for or in connection with the carriage of passengers or to which the passengers have or are permitted to have access

Wendy LEUNG
Clerk to the Executive Council

COUNCIL CHAMBER

13 July 2020

Explanatory Note

This Regulation requires a person to wear a mask at all times on a public transport carrier (*carrier*) or in an MTR paid area (*area*) during any period specified by the Secretary for Food and Health.

2. The statutory requirement is subject to certain exemptions, including if the person has a reasonable excuse for not wearing a mask.
3. If a person contravenes the statutory requirement to wear a mask, an authorized person (which includes a police officer and the operator of the carrier) may exercise the following powers—
 - (a) to deny boarding to the carrier, or entry to the area, to the person;
 - (b) to require the person to wear a mask; and
 - (c) to require the person to disembark from the carrier or leave the area.
4. A person who contravenes the statutory requirement or, without reasonable excuse, fails to comply with a requirement made by an authorized person to disembark or leave commits a summary offence which is punishable by a fine at level 2 (i.e. \$5,000).