

L.N. 119 of 2019

Prohibition on Face Covering Regulation

(Made by the Chief Executive in Council under section 2 of the Emergency Regulations Ordinance (Cap. 241))

1. Commencement

This Regulation comes into operation on 5 October 2019.

2. Interpretation

In this Regulation—

Cap. 245 (《公安條例》) means the Public Order Ordinance (Cap. 245);

facial covering (蒙面物品) means a mask or any other article of any kind (including paint) that covers all or part of a person's face;

police officer (警務人員) has the meaning given by section 3 of the Police Force Ordinance (Cap. 232);

public meeting (公眾集會) has the meaning given by section 2(1) of Cap. 245;

public place (公眾地方) has the meaning given by section 2(1) of Cap. 245;

public procession (公眾遊行) has the meaning given by section 2(1) of Cap. 245;

unauthorized assembly (未經批准集結) has the same meaning as in section 17A(2) of Cap. 245;

unlawful assembly (非法集結) has the same meaning as in section 18 of Cap. 245.

3. Use of facial covering in certain circumstances is an offence

- (1) A person must not use any facial covering that is likely to prevent identification while the person is at—
 - (a) an unlawful assembly (whether or not the assembly is a riot within the meaning of section 19 of Cap. 245);
 - (b) an unauthorized assembly;
 - (c) a public meeting that—
 - (i) takes place under section 7(1) of Cap. 245; and
 - (ii) does not fall within paragraph (a) or (b); or
 - (d) a public procession that—
 - (i) takes place under section 13(1) of Cap. 245; and
 - (ii) does not fall within paragraph (a) or (b).
- (2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 4 and to imprisonment for 1 year.

4. Defence for offence under section 3(2)

- (1) It is a defence for a person charged with an offence under section 3(2) to establish that, at the time of the alleged offence, the person had lawful authority or reasonable excuse for using a facial covering.
- (2) A person is taken to have established that the person had lawful authority or reasonable excuse for using a facial covering if—
 - (a) there is sufficient evidence to raise an issue that the person had such lawful authority or reasonable excuse; and
 - (b) the contrary is not proved by the prosecution beyond reasonable doubt.

- (3) Without limiting the scope of the reasonable excuse referred to in subsection (1), a person had a reasonable excuse if, at the assembly, meeting or procession concerned—
 - (a) the person was engaged in a profession or employment and was using the facial covering for the physical safety of the person while performing an act or activity connected with the profession or employment;
 - (b) the person was using the facial covering for religious reasons; or
 - (c) the person was using the facial covering for a pre-existing medical or health reason.

5. Power to require removal in public place of facial covering

- (1) This section applies in relation to a person in a public place who is using a facial covering that a police officer reasonably believes is likely to prevent identification.
- (2) The police officer may—
 - (a) stop the person and require the person to remove the facial covering to enable the officer to verify the identity of the person; and
 - (b) if the person fails to comply with a requirement under paragraph (a)—remove the facial covering.
- (3) A person who fails to comply with a requirement under subsection (2)(a) commits an offence and is liable on conviction to a fine at level 3 and to imprisonment for 6 months.

6. Prosecution deadline for offences

A prosecution for an offence under section 3(2) or 5(3) may only be started before the end of 12 months beginning on the date on which the offence is committed.

Wendy LEUNG
Clerk to the Executive Council

COUNCIL CHAMBER

4 October 2019

Explanatory Note

The purposes of this Regulation are to—

- (a) prohibit the use in certain circumstances of any facial covering that is likely to prevent identification and provide for an offence (section 3) (with a defence where the person charged with the offence had lawful authority or reasonable excuse at the time of the alleged offence (section 4));
- (b) empower a police officer to require a person in a public place to remove the person's facial covering in certain circumstances and provide for non-compliance to be an offence (section 5); and
- (c) provide for an extension of the prosecution time limit for an offence under section 3(2) or 5(3) to 12 months beginning on the date on which the offence is committed (section 6).