

SCHEDULE 3

Regulation 3(3)

Level 2 Restrictions

PART 1

Closure of Premises

Requirement to close certain premises in a Level 2 area to members of the public

1.—(1) A person who is responsible for carrying on a listed business located in a Level 2 area must—

- (a) close to members of the public any premises operated as part of the business, and
- (b) not carry on business at such premises otherwise than in accordance with this regulation.

(2) In sub-paragraph (1), “listed business” means—

- (a) a nightclub, dance hall or discotheque,
- (b) a concert hall,
- (c) any other venue which—
 - (i) normally opens at night,
 - (ii) has a dance floor or other space for dancing or spectating by members of the public (and for these purposes, members of staff of the venue in question are to be considered members of the public), and
 - (iii) provides music, whether live or recorded,
- (d) a sexual entertainment venue,
- (e) an indoor or outdoor theatre,
- (f) a comedy club,
- (g) a soft play centre,
- (h) a sports stadium,
- (i) a conference or exhibition centre,
- (j) a snooker or pool hall,
- (k) a bowling alley,
- (l) a casino,
- (m) a funfair or amusement arcade.

(3) Sub-paragraph (1) does not prevent the use of—

- (a) premises, while those premises remain closed to members of the public, to—
 - (i) record a performance or sporting event,
 - (ii) broadcast a performance or sporting event to persons outside the premises, whether over the internet or as part of a radio or television broadcast, or
 - (iii) rehearse, train, practise or otherwise prepare for a performance or sporting event,
- (b) premises of a listed business in sub-paragraph (2)(b), (e), or (h) for education or training purposes,
- (c) premises of a listed business in sub-paragraph (2)(h) for providing voluntary or charitable services,

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- (d) premises of a listed business in sub-paragraph (2)(a), (b), (c), (e), (f), (h) or (i) for any purpose requested by the Scottish Ministers, a health board, a local authority or the Scottish Courts and Tribunals Service,
 - (e) any suitable premises to host blood donation sessions,
 - (f) any suitable premises that are used for the purposes of professional sport.
- (4) Sub-paragraph (1) does not prevent the use of premises, while those remain closed to members of the public, to take preparatory steps in pursuance of a requirement in paragraph 8.
- (5) Sub-paragraph (1) does not prevent the use of premises for a drive-in event.
- (6) If a listed business (“business A”) forms part of a larger business (“business B”) the person responsible for carrying on business B complies with the requirement in sub-paragraph (1)(a) if it closes down business A.
- (7) In sub-paragraph (2), “sexual entertainment venue” has the meaning given by section 45A of the Civic Government (Scotland) Act 1982(1).

Requirement to cease mobile close contact services in a Level 2 area

2.—(1) A person who provides a close contact service must not provide that service in a Level 2 area as a mobile close contact service.

(2) For the purposes of this paragraph—

(a) a “close contact service” means:

- (i) beauty and nail services (including make-up services),
- (ii) hair removal services,
- (iii) tattoo, piercing and body modification services,
- (iv) fashion design, dress-fitting and tailoring services,
- (v) indoor portrait photography and art services,
- (vi) massage therapies,
- (vii) complementary and alternative medicine services requiring physical contact or close physical proximity between persons, but not osteopathy and chiropractic services,
- (viii) spa and wellness services,
- (ix) other services or procedures which require physical contact or close physical proximity between a provider and a customer and are not ancillary to medical, health, or social care services.

(b) a “mobile close contact service” means a close contact service which is provided at a location other than—

- (i) fixed business premises which have as one of their uses the provision of the service,
- (ii) a room which is used exclusively for the provision of the service and is situated within a private dwelling, hospice, or other care setting.

(1) 1982 c.45. Section 45A was inserted by the Air Weapons and Licensing (Scotland) Act 2015 (asp 10), section 76(3).

PART 2

Other restrictions on business

Requirement for seated food and drink sale and consumption in food and drink businesses in a Level 2 area

3.—(1) A person who is responsible for carrying on a food and drink business in a Level 2 area may sell food or drink for consumption on the premises only if—

- (a) where reasonably practicable, the food or drink is ordered by, and served to, a customer who is seated on the premises, and
- (b) the customer remains seated whilst consuming the food or drink on the premises.

(2) For the purposes of sub-paragraph (1), an area adjacent to the premises of the food and drink business, where seating is made available for customers of the business (whether or not by the business), or which its customers habitually use for consumption of food or drink served by the business, is to be treated as part of the premises of that business.

(3) If a food and drink business (“business A”) forms part of a larger business (“business B”), the person responsible for carrying on business B complies with the requirements in sub-paragraph (1) if that person complies with the requirements in relation to business A.

(4) Sub-paragraph (1) is subject to the closure of drinks-only public house businesses in paragraph 4, the restriction on opening hours in paragraph 5 and the restrictions on sale and consumption of alcohol in paragraph 6.

Closure of drinks-only public house businesses in a Level 2 area

4.—(1) A person who is responsible for carrying on a drinks-only public house business in a Level 2 area must—

- (a) close to members of the public any premises operated as part of the business, and
- (b) not carry on business at such premises otherwise than in accordance with this paragraph.

(2) Sub-paragraph (1) does not prevent food or drink being sold for consumption off the premises.

(3) For the purposes of this paragraph, a “drinks-only public house business” means any public house which does not have available on its premises facilities to allow the preparation and service of a meal such as might be expected to be served as the main midday or main evening meal, or as a main course at either such meal.

(4) For the purposes of sub-paragraph (1), an area adjacent to the premises of the drinks-only public house business, where seating is made available for customers of the business (whether or not by the business), or which its customers habitually use for consumption of food or drink served by the business, is to be treated as part of the premises of that business.

(5) If a drinks-only public house business (“business A”) forms part of a larger business (“business B”), the person responsible for carrying on business B complies with the requirements in sub-paragraph (1) if that person complies with the requirements in relation to business A.

Restricted opening hours for food and drink businesses in a Level 2 area

5.—(1) Subject to paragraph 7, a person who is responsible for carrying on a food and drink business in a Level 2 area (other than one to which paragraph 4 applies) must, in relation to any premises, or parts of the premises, which are indoors—

- (a) between the hours of 1900 and 0600, cease to admit any additional customers to the premises,

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- (b) between the hours of 2000 and 0600—
 - (i) close any premises, or parts of the premises, in which food or drink are sold for consumption on those premises, to members of the public,
 - (ii) cease selling food or drink for consumption on those premises,
 - (iii) not permit consumption of food or drink on those premises by members of the public.
- (2) Subject to paragraph 7, a person who is responsible for carrying on a food and drink business in a Level 2 area (other than one to which paragraph 4 applies) must, in relation to any premises, or parts of the premises, which are outdoors—
 - (a) between the hours of 2130 and 0600, cease to admit any additional customers to the premises,
 - (b) between the hours of 2230 and 0600—
 - (i) close any premises, or parts of the premises, in which food or drink are sold for consumption on those premises, to members of the public,
 - (ii) cease selling food or drink for consumption on those premises,
 - (iii) not permit consumption of food or drink on those premises by members of the public.
- (3) Sub-paragraphs (1) and (2) do not prevent food or drink being sold—
 - (a) for consumption off the premises,
 - (b) by a hotel or other accommodation for consumption as part of room service,
 - (c) by a hotel or other accommodation between the hours of 0600 and 2200 for consumption by its residents in any other area of the hotel or accommodation,
 - (d) in a cinema to its customers for consumption in any of its auditoriums,
 - (e) to customers attending a drive-in event for consumption at the event,
 - (f) for consumption in a cafe, dining hall or canteen at—
 - (i) a hospital or care home,
 - (ii) a school or student accommodation,
 - (iii) a prison,
 - (iv) an establishment intended for use for naval, military or air force purposes or for the purposes of the Department of the Secretary of State responsible for defence, or
 - (v) a workplace canteen where—
 - (aa) there is no practical alternative for staff at that workplace to obtain food, and
 - (bb) so far as reasonably possible, a distance of at least two metres can be maintained between any person using the canteen,
 - (g) for consumption in premises providing food or drink to homeless persons,
 - (h) for consumption in premises which are airside at an airport,
 - (i) for consumption in premises which are on a ferry.
- (4) Sub-paragraph (3)(c) does not apply in relation to the sale of alcohol by a hotel or other accommodation to its residents between 2000 and 0600.
- (5) Sub-paragraph (3)(d) to (i) does not apply in relation to the sale of alcohol.
- (6) Sub-paragraph (1) does not prevent—
 - (a) the consumption of food or drink by a resident of a hotel in their private room,
 - (b) the consumption of food or drink by members of the public in any of the premises described in sub-paragraph (3)(d) to (i).

(7) For the purposes of sub-paragraph (1), an area adjacent to the premises of the food and drink business, where seating is made available for customers of the business (whether or not by the business), or which its customers habitually use for consumption of food or drink served by the business, is to be treated as part of the premises of that business.

(8) If a food and drink business (“business A”) forms part of a larger business (“business B”), the person responsible for carrying on business B complies with the requirements in sub-paragraph (1) or (2) if that person complies with the requirements in relation to business A.

Restrictions on sale and consumption of alcohol in food and drink businesses in a Level 2 area

6.—(1) Subject to paragraph 7, a person who is responsible for carrying on a food and drink business in a Level 2 area (other than one to which paragraph 4 applies) must—

- (a) cease selling or supplying alcohol for consumption on any part of its premises indoors, and
- (b) not permit consumption of alcohol on any part of its premises indoors.

(2) Sub-paragraph (1) does not apply if alcohol is served for consumption on the premises indoors ancillary to the taking of a table meal, and the meal—

- (a) has been prepared on the premises, and
- (b) is such as might be expected to be served as the main midday or main evening meal (irrespective of the actual time of service), or as a main course at either such meal.

(3) For the purposes of this paragraph, a table meal means a meal eaten by a person seated at a table, or at a counter or other structure which serves the purposes of a table and is not used for the service of refreshments for consumption by persons not seated at a table or structure serving the purposes of a table.

(4) Sub-paragraph (1) does not apply if—

- (a) the sale of alcohol is by a hotel or other accommodation as part of room service, or
- (b) consumption of alcohol is by a resident of a hotel in their private room.

Special opening hours for certain services

7.—(1) Where sub-paragraph (3) applies, the requirements in paragraph 5 (restricted opening hours for food and drink businesses in a Level 2 area) apply with the following modifications:—

- (a) sub-paragraph (1)(a) is omitted,
- (b) in sub-paragraph (1)(b), for “2000” substitute “2200”,
- (c) sub-paragraph (2)(a) is omitted,
- (d) sub-paragraphs (3) and (4) are omitted.

(2) Where sub-paragraph (3) applies, the requirements in paragraph 6 (restrictions on sale and consumption of alcohol in food and drink businesses in a Level 2 area) do not apply.

(3) This sub-paragraph applies where a food and drink business located in a Level 2 area is providing services in connection with—

- (a) a marriage ceremony or civil partnership registration, or
- (b) a funeral.

Requirement to take measures to minimise risk of exposure to coronavirus in a Level 2 area

8.—(1) A person who is responsible for a place of worship, carrying on a business or providing a service in a Level 2 area must take—

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- (a) measures to ensure, so far as reasonably practicable, that—
 - (i) the required distance is maintained between any persons on its premises (except between persons mentioned in sub-paragraph (2)),
 - (ii) persons are admitted to its premises in sufficiently small numbers to make it possible to maintain the required distance, and
 - (iii) the required distance is maintained between any persons waiting to enter its premises (except between persons mentioned in sub-paragraph (2)), and
 - (b) all other measures which are reasonably practicable to minimise the risk of the incidence and spread of coronavirus on the premises, for example measures which limit close face to face interaction and maintain hygiene such as—
 - (i) changing the layout of premises including the location of furniture and workstations,
 - (ii) controlling the use of entrances, passageways, stairs and lifts,
 - (iii) controlling the use of shared facilities such as toilets and kitchens,
 - (iv) otherwise controlling the use of, or access to, any other part of the premises,
 - (v) installing barriers or screens,
 - (vi) providing, or requiring the use of, personal protective equipment, and
 - (vii) providing information to those entering or working at the premises about how to minimise the risk of exposure to coronavirus.
- (2) The persons mentioned in sub-paragraph (1)(a)(i) and (iii) are—
- (a) two or more members of the same household,
 - (b) a carer and the person assisted by that carer, or
 - (c) in relation to premises being used to provide school education, two or more persons where at least one of them is a pupil.
- (3) In this paragraph—
- “carer” includes a person who provides care for the person assisted whether that care is provided—
- (a) by a carer within the meaning of section 1 of the Carers (Scotland) Act 2016(2),
 - (b) on a paid basis, or
 - (c) on a voluntary basis,
- “pupil” has the meaning given by section 135(1) of the Education (Scotland) Act 1980(3),
- “required distance” means—
- (a) in relation to reduced distance premises, at least one metre, or
 - (b) in all other cases, at least two metres,
- “school education” has the meaning given by section 1(5)(a) of the Education (Scotland) Act 1980(4).
- (4) In the definition of “required distance” in sub-paragraph (3), “reduced distance premises” means—
- (a) passenger transport service premises,
 - (b) restaurants, including restaurants and dining rooms in hotels or members’ clubs,

(2) 2016 asp 9.

(3) 1980 c.44.

(4) Section 1(5)(a) was amended by the Education (Scotland) Act 1981 (c.58), section 3(1)(a), by the Standards in Scotland’s Schools etc. Act 2000 (asp 6), schedule 3, and by the Children and Young People (Scotland) Act 2014 (asp 8), schedule 5, paragraph 2(2)(c).

- (c) cafes, including workplace canteens,
- (d) bars, including bars in hotels or members' clubs, and
- (e) public houses.

Guidance on minimising exposure to coronavirus in a Level 2 area

9.—(1) A person who is responsible for a place of worship, carrying on a business or providing a service in a Level 2 area must have regard to guidance issued by the Scottish Ministers about measures which should be taken in accordance with paragraph 8(1)(b) relating to its premises, business or service.

(2) Guidance issued by the Scottish Ministers may—

- (a) make different provision for different cases or descriptions of case,
- (b) incorporate (by reference or transposition) guidance, codes of practice or other documents published by another person (for example, a trade association, a body representing members of an industry or a trade union).

(3) Regulation 4 (enforcement of requirements) does not apply to a contravention of the requirement in sub-paragraph (1).

Requirement to collect and share information in a Level 2 area: restaurants, cafes, bars, public houses, etc.

10.—(1) A person who is responsible for a relevant hospitality premises in a Level 2 area must, in relation to the premises, take measures to—

- (a) obtain and record visitor information,
- (b) record visitor information in a filing system (which may be an electronic system) suitable for recording, storing and retrieving the information, and
- (c) retain visitor information for a period of at least 21 days beginning with the date on which the visit occurred.

(2) Sub-paragraph (1) does not apply in relation to a visitor to the premises who is there solely for the purpose of purchasing or collecting food or drink for consumption off the premises.

(3) A person who is responsible for a relevant hospitality premises must provide visitor information to a public health officer, as soon as reasonably practicable but in any event within 24 hours, if so requested by the public health officer for the purpose of—

- (a) preventing a threat to public health resulting from the spread of infection or contamination with coronavirus,
- (b) monitoring the spread of infection or contamination with coronavirus or the incidence of coronavirus disease.

(4) In this paragraph—

“public health officer” has the meaning given by paragraph 3(2)(b) of schedule 21 of the Coronavirus Act 2020⁽⁵⁾,

“relevant hospitality premises” means—

- (a) a restaurant, cafe, bar or public house, or
- (b) a hotel in which food or drink is sold for consumption on the premises, and

“visitor information” means—

- (a) the name and telephone number of one member of each household visiting the premises,

(5) 2020 c.7.

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- (b) the date of their visit and arrival time, and
- (c) the number of members of that person’s household visiting the premises at that time.

PART 3

Restrictions on gatherings

Restriction on public gatherings indoors in a Level 2 area

11.—(1) A person must not participate in a gathering in a public place indoors located in a Level 2 area, unless the gathering—

- (a) consists of no more than six persons from no more than two households,
- (b) is for the purpose of—
 - (i) work or providing voluntary or charitable services,
 - (ii) childcare, education or training,
 - (iii) attending a place of worship,
 - (iv) providing care or assistance to a vulnerable person,
 - (v) providing emergency or medical assistance,
 - (vi) avoiding injury, illness or escaping a risk of harm,
 - (vii) facilitating a house move,
 - (viii) facilitating shared parenting arrangements,
 - (ix) participating in legal proceedings or fulfilling a legal obligation,
 - (x) donating blood,
 - (xi) accessing public services, including—
 - (aa) social services,
 - (bb) services provided by the Department for Work and Pensions,
 - (cc) services provided to victims (such as victims of crime),
 - (xii) an organised activity which is for persons under 18 years of age,
 - (xiii) organised exercise which—
 - (aa) is not a contact sport, or
 - (bb) is for persons under 18 years of age,
- (c) relates to a funeral, marriage ceremony or civil partnership registration, or
- (d) is taking place in student accommodation, where all the persons in the gathering—
 - (i) are using cooking, dining, toilet or washing facilities which are shared with any person who is not a member of their household, and
 - (ii) have the accommodation as their only or main residence.

(2) For the purpose of sub-paragraph (1)(a), children under 12 years of age are not to be included when counting the number of persons participating in a gathering but are to be included when counting the number of households participating in a gathering.

(3) For the purpose of sub-paragraph (1)(b)(xii) and (xiii), an activity or exercise is “organised” if—

- (a) it is organised by—

- (i) a person who is responsible for carrying on a business or providing a service,
 - (ii) a person who is responsible for a place of worship,
 - (iii) a charity or other not for profit organisation,
 - (iv) a club or political organisation, or
 - (v) the governing body of a sport or other activity, and
- (b) the organiser has taken such measures described in paragraph 8(1)(a) and (b) as are relevant to the particular activity or exercise, taking into account any relevant guidance issued by the Scottish Ministers.

Restriction on public gatherings outdoors in a Level 2 area

12.—(1) A person must not participate in a gathering in a public place outdoors located in a Level 2 area, unless the gathering—

- (a) consists of no more than six persons from no more than two households,
- (b) consists of no more than six persons who are all under 18 years of age, where at least one person in the gathering has attained 12 years of age but has not attained 18 years of age,
- (c) consists of persons who are all under 12 years of age,
- (d) is for the purpose of—
 - (i) work or providing voluntary or charitable services,
 - (ii) childcare, education or training,
 - (iii) attending a place of worship,
 - (iv) providing care or assistance to a vulnerable person,
 - (v) providing emergency or medical assistance,
 - (vi) avoiding injury, illness or escaping a risk of harm,
 - (vii) facilitating a house move,
 - (viii) facilitating shared parenting arrangements,
 - (ix) participating in legal proceedings or fulfilling a legal obligation,
 - (x) donating blood,
 - (xi) accessing public services, including—
 - (aa) social services,
 - (bb) services provided by the Department for Work and Pensions,
 - (cc) services provided to victims (such as victims of crime),
 - (xii) an organised activity which is not a public procession,
 - (xiii) organised exercise,
- (e) relates to a funeral, marriage ceremony or civil partnership registration, or
- (f) is taking place in student accommodation, where all the persons in the gathering—
 - (i) are using cooking, dining, toilet or washing facilities which are shared with any person who is not a member of their household, and
 - (ii) have the accommodation as their only or main residence.

(2) For the purpose of sub-paragraph (1)(a), children under 12 years of age are not to be included when counting the number of persons or households participating in a gathering.

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(3) For the purpose of sub-paragraph (1)(d)(xii) and (xiii), an activity or exercise is “organised” if—

- (a) it is organised by—
 - (i) a person who is responsible for carrying on a business or providing a service,
 - (ii) a person who is responsible for a place of worship,
 - (iii) a charity or other not for profit organisation,
 - (iv) a club or political organisation, or
 - (v) the governing body of a sport or other activity, and
- (b) the organiser has taken such measures described in paragraph 8(1)(a) and (b) as are relevant to the particular activity or exercise, taking into account any relevant guidance issued by the Scottish Ministers.

Restriction on gatherings in private dwellings in a Level 2 area

13.—(1) A person must not attend a gathering in a private dwelling located in a Level 2 area, unless the gathering—

- (a) takes place outdoors and consists of no more than six persons from no more than two households,
- (b) takes place outdoors and—
 - (i) where at least one person in the gathering has attained 12 years of age but has not attained 18 years of age, consists of no more than six persons who are all under 18 years of age, or
 - (ii) all the persons in the gathering are under 12 years of age,
- (c) is for the purpose of—
 - (i) work or providing voluntary or charitable services,
 - (ii) childcare, education or training,
 - (iii) providing care or assistance to a vulnerable person,
 - (iv) providing emergency or medical assistance,
 - (v) avoiding injury, illness or escaping a risk of harm,
 - (vi) facilitating a house move,
 - (vii) facilitating shared parenting arrangements,
 - (viii) fulfilling a legal obligation,
- (d) is a funeral, marriage ceremony or civil partnership registration, or
- (e) is taking place in student accommodation, where all the persons in the gathering—
 - (i) are using cooking, dining, toilet or washing facilities which are shared with any person who is not a member of their household, and
 - (ii) have the accommodation as their only or main residence.

(2) For the purpose of sub-paragraph (1)(a), children under 12 years of age are not to be included when counting the number of people or households attending a gathering.