

## SCHEDULE 5

Regulation 3(5)

### Level 4 Restrictions

## PART 1

### Closure of Premises

#### **Requirement to close certain premises in a Level 4 area to members of the public**

1.—(1) A person who is responsible for carrying on a listed business located in a Level 4 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 cinema,
- (b) a nightclub, dance hall or discotheque,
- (c) a concert hall,
- (d) 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,
- (e) a sexual entertainment venue,
- (f) an indoor or outdoor theatre,
- (g) a comedy club,
- (h) a museum or gallery,
- (i) a soft play centre,
- (j) a sports stadium,
- (k) a conference or exhibition centre,
- (l) a snooker or pool hall,
- (m) a bowling alley,
- (n) a casino,
- (o) a betting shop,
- (p) a bingo hall,
- (q) a funfair,
- (r) an amusement arcade,
- (s) premises which provide a close contact service,
- (t) a skating rink,
- (u) an indoor fitness studio, gym, swimming pool or other indoor leisure centre or facility.

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

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- (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)(c), (f), or (j) for education or training purposes,
  - (c) premises of a listed business in sub-paragraph (2)(j) for providing voluntary or charitable services,
  - (d) premises of a listed business in sub-paragraph (2)(a), (b), (c), (d), (f), (g), (j) or (k) 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) 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.
- (6) In sub-paragraph (2)—
- (a) “sexual entertainment venue” has the meaning given by section 45A of the Civic Government (Scotland) Act 1982(1),
  - (b) “close contact service” means—
    - (i) hairdressing and barber services,
    - (ii) beauty and nail services (including make-up services),
    - (iii) hair removal services,
    - (iv) tattoo, piercing and body modification services,
    - (v) fashion design, dress-fitting and tailoring services,
    - (vi) indoor portrait photography and art services,
    - (vii) massage therapies, but not sports massage provided only to professional sportspeople,
    - (viii) complementary and alternative medicine services requiring physical contact or close physical proximity between persons, but not osteopathy and chiropractic services,
    - (ix) spa and wellness services,
    - (x) 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.

#### **Requirement to close retail and library premises in a Level 4 area to members of the public**

2.—(1) A person who is responsible for carrying on a business which offers goods for sale or hire in a shop or provides library services in a Level 4 area must—

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

- (a) cease to carry on that business or provide that service except by making deliveries or otherwise providing collection services in response to orders received—
    - (i) through a website, or otherwise by on-line communication,
    - (ii) by telephone, including orders by text message, or
    - (iii) by post,
  - (b) close any premises which are not required to carry out its business or provide its services as permitted by sub-paragraph (1)(a),
  - (c) cease to admit any person to its premises who is not required to carry on its business or provide its services as permitted by sub-paragraph (1)(a).
- (2) Sub-paragraph (1) does not apply to any business which provides hot or cold food for consumption off the premises.
- (3) Sub-paragraph (1) does not apply to any of the following—
- (a) food retailers, including food markets, supermarkets, convenience stores and corner shops,
  - (b) off licenses and licensed shops selling alcohol (including breweries),
  - (c) pharmacies (including non-dispensing pharmacies) and chemists,
  - (d) newsagents,
  - (e) homeware, building supplies and hardware stores,
  - (f) petrol stations,
  - (g) car repair and MOT services,
  - (h) bicycle shops,
  - (i) taxi or vehicle hire businesses,
  - (j) banks, building societies, credit unions, short-term loan providers, savings clubs, cash points and undertakings which by way of business operate a currency exchange office, transmit money (or any representation of money) by any means or cash cheques which are made payable to customers,
  - (k) post offices,
  - (l) funeral directors,
  - (m) laundrettes and dry cleaners,
  - (n) dental services, opticians, audiology services, chiropody services, chiropractors, osteopaths and other medical or health services, including services relating to mental health,
  - (o) veterinary surgeons and pet shops,
  - (p) agricultural supplies shops and agricultural markets,
  - (q) storage and distribution facilities, including delivery drop off or collection points, where the facilities are in the premises of a business included in this sub-paragraph,
  - (r) car parks,
  - (s) public toilets,
  - (t) livestock markets or auctions,
  - (u) garden centres, plant nurseries, outdoor markets, and outdoor car lots.

#### **Requirement to cease providing holiday accommodation in a Level 4 area**

**3.—(1)** A person who is responsible for carrying on a business in a Level 4 area consisting of the provision of holiday accommodation, whether in a hotel, hostel, bed and breakfast accommodation,

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holiday apartment, home, cottage or bungalow, campsite, caravan park or boarding house, must cease to carry on that business.

- (2) Sub-paragraph (1) does not prevent holiday accommodation from being provided—
- (a) to any person, who—
    - (i) is unable to return to their main residence,
    - (ii) uses that accommodation as their main residence,
    - (iii) is living in that accommodation for work purposes,
    - (iv) needs accommodation while moving house,
    - (v) needs accommodation to attend a funeral,
  - (b) to the homeless or to support services for the homeless,
  - (c) to host blood donation sessions, or
  - (d) for any purpose requested by the Scottish Ministers or a local authority.

**Requirement to cease mobile close contact services in a Level 4 area**

4.—(1) A person who provides a close contact service must not provide that service in a Level 4 area as a mobile close contact service.

- (2) For the purposes of this paragraph—
- (a) a “close contact service” means—
    - (i) hairdressing and barber services,
    - (ii) beauty and nail services (including make-up services),
    - (iii) hair removal services,
    - (iv) tattoo, piercing and body modification services,
    - (v) fashion design, dress-fitting and tailoring services,
    - (vi) indoor portrait photography and art services,
    - (vii) massage therapies,
    - (viii) complementary and alternative medicine services requiring physical contact or close physical proximity between persons, but not osteopathy and chiropractic services,
    - (ix) spa and wellness services,
    - (x) 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.

## PART 2

### Other restrictions on business

#### **Requirement for seated food and drink sale and consumption in food and drink businesses in a Level 4 area**

5.—(1) A person who is responsible for carrying on a food and drink business in a Level 4 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 paragraph 6.

#### **Closure of food and drink businesses in a Level 4 area**

6.—(1) A person who is responsible for carrying on a food and drink business in a Level 4 area must—

- (a) 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,
  - (b) cease selling food or drink for consumption on those premises,
  - (c) not permit consumption of food or drink on those premises by members of the public.
- (2) Sub-paragraph (1) does 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) 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,
  - (e) for consumption in premises providing food or drink to homeless persons,
  - (f) for consumption in premises which are airside at an airport,

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- (g) for consumption in premises which are on a ferry.
- (3) Sub-paragraph (2)(c) to (g) does not apply in relation to the sale of alcohol.
- (4) 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 (2)(d) to (g).
- (5) 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.
- (6) 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.

#### **Exceptions to food and drink business closures for certain services**

- 7.—(1) Where sub-paragraph (2) applies, the requirements in paragraph 6 (closure of food and drink businesses in a level 4 area) apply with the following modifications:
- (a) in sub-paragraph (1), after “must”, insert “between the hours of 2200 and 0600”,
  - (b) sub-paragraphs (2) and (3) are omitted.
- (2) This sub-paragraph applies where a food and drink business located in a Level 4 area is providing services—
- (a) for the purpose of a marriage ceremony or civil partnership registration, or
  - (b) in connection with a funeral.

#### **Requirement to take measures to minimise risk of exposure to coronavirus in a Level 4 area**

- 8.—(1) A person who is responsible for a place of worship, carrying on a business or providing a service in a Level 4 area must take—
- (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,
  - (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 4 area**

9.—(1) A person who is responsible for a place of worship, carrying on a business or providing a service in a Level 4 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 paragraph (1).

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(2) [2016 asp 9](#).

(3) [1980 c.44](#).

(4) Section 1(5)(a) was amended by schedule 3 of the Standards in Scotland’s Schools etc. Act 2000 ([asp 6](#)), paragraph 3(2)(a) of schedule 3 of the Education (Additional Support for Learning) (Scotland) Act 2004 ([asp 4](#)) and paragraph 2(2)(c) of schedule 5 of the Children and Young People (Scotland) Act 2014 ([asp 8](#)).

**Requirement to collect and share information: restaurants, cafes, bars, public houses, etc. in a Level 4 area**

**10.**—(1) A person who is responsible for a relevant hospitality premises in a Level 4 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<sup>(5)</sup>,

“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,
- (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 protected Level 4 area**

**11.**—(1) A person must not participate in a gathering in a public place located in a Level 4 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,

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(5) 2020 c.7.



- (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),
- (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.

#### **Restriction on public gatherings outdoors in a Level 4 area**

**12.—(1)** A person must not participate in a gathering in a public place outdoors located in a Level 4 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,

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- (cc) services provided to victims (such as victims of crime),
- (xii) organised exercise which is not a contact sport,
- (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.
- (3) For the purpose of sub-paragraph (1)(d)(xii), 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 4 area**

- 13.—(1)** A person must not attend a gathering in a private dwelling located in a Level 4 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) fulfilling a legal obligation,
    - (viii) facilitating shared parenting arrangements,
  - (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.