

SCHEDULE 5

Level 4 Restrictions

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.

Commencement Information

II Sch. 5 para. 5 in force at 2.11.2020 at 6.00 a.m., see reg. 1(1)

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, [F1 provided that the person responsible for carrying on the food and drink business ensures that—
 - (i) the food or drink is provided by means of a delivery to the customer, or
 - (ii) the customer who collects the food or drink does not enter into the premises to do so,]
 - (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—

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- (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,
 - (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.
- [^{F2}(7) Sub-paragraph (1) does not prevent the use of suitable premises to host vaccination services, where requested to do so by the Scottish Ministers, a local authority or a health board.]

F1 Sch. 5 para. 6(2)(a)(i)(ii) and words inserted (16.1.2021) by [The Health Protection \(Coronavirus\) \(Restrictions and Requirements\) \(Local Levels\) \(Scotland\) Amendment \(No. 12\) Regulations 2021 \(S.S.I. 2021/17\)](#), regs. 1(2), **10**

F2 Sch. 5 para. 6(7) inserted (16.1.2021) by [The Health Protection \(Coronavirus\) \(Restrictions and Requirements\) \(Local Levels\) \(Scotland\) Amendment \(No. 12\) Regulations 2021 \(S.S.I. 2021/17\)](#), regs. 1(2), **8(g)**

Commencement Information

I2 Sch. 5 para. 6 in force at 2.11.2020 at 6.00 a.m., see reg. 1(1)

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—

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(a) for the purpose of a marriage ceremony or civil partnership registration, or

^{F3}(b)

F3 Sch. 5 para. 7(2)(b) omitted (8.1.2021) by virtue of [The Health Protection \(Coronavirus\) \(Restrictions and Requirements\) \(Local Levels\) \(Scotland\) Amendment \(No. 11\) Regulations 2021 \(S.S.I. 2021/3\)](#), regs. 1, **4(c)**

Commencement Information

I3 Sch. 5 para. 7 in force at 2.11.2020 at 6.00 a.m., see reg. 1(1)

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)^{F4}],
 - (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)^{F5}], 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 ^{M1},
- (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 ^{M2},

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“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^{M3}.

(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, [^{F6}excluding] workplace canteens,
- (d) bars, including bars in hotels or members' clubs, and
- (e) public houses.

- F4** Closing bracket in sch. 5 para. 8(1)(a)(i) inserted (13.11.2020 at 6.00 a.m.) by [The Health Protection \(Coronavirus\) \(Restrictions and Requirements\) \(Local Levels\) \(Scotland\) Amendment \(No. 2\) Regulations 2020 \(S.S.I. 2020/374\)](#), regs. 1, **18(2)(d)**
- F5** Closing bracket in sch. 5 para. 8(1)(a)(iii) inserted (13.11.2020 at 6.00 a.m.) by [The Health Protection \(Coronavirus\) \(Restrictions and Requirements\) \(Local Levels\) \(Scotland\) Amendment \(No. 2\) Regulations 2020 \(S.S.I. 2020/374\)](#), regs. 1, **18(2)(d)**
- F6** Word in sch. 5 para. 8(4)(c) substituted (8.1.2021) by [The Health Protection \(Coronavirus\) \(Restrictions and Requirements\) \(Local Levels\) \(Scotland\) Amendment \(No. 11\) Regulations 2021 \(S.S.I. 2021/3\)](#), regs. 1, **4(d)**

Commencement Information

- I4** Sch. 5 para. 8 in force at 2.11.2020 at 6.00 a.m., see reg. 1(1)

Marginal Citations

- M1** 2016 asp 9.
- M2** 1980 c.44.
- M3** 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 \(asp 8\)](#).

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).

Commencement Information

I5 Sch. 5 para. 9 in force at 2.11.2020 at 6.00 a.m., see reg. 1(1)

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 ^{M4},

“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.

Commencement Information

I6 Sch. 5 para. 10 in force at 2.11.2020 at 6.00 a.m., see reg. 1(1)

Marginal Citations

M4 2020 c.7.

[^{F7}]^{F8} Residential properties (eviction)]

10A.—(1) No person may attend at a dwelling house for the purpose of—

- (a) serving a charge for removing, or

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- (b) executing a decree for removing from heritable property.
- (2) Sub-paragraph (1) does not apply where the charge for removing relates to a decree for removing from heritable property, or where the decree for removing from heritable property is, granted wholly or partly on the basis that possession is sought in the circumstances as specified in—
- (a) Case 2 (nuisance, annoyance or conviction for using or allowing the dwelling-house to be used for immoral or illegal purposes) in schedule 2 of the Rent (Scotland) Act 1984,
 - (b) Ground 15 (conviction for certain offences, acting in an anti-social manner or pursuing a course of anti-social conduct) in schedule 5 of the Housing (Scotland) Act 1988,
 - (c) Paragraph 2 (conviction for certain offences), 7 (anti-social behaviour or harassment) or 8 (nuisance, annoyance or harassment) of schedule 2 of the Housing (Scotland) Act 2001, or
 - (d) Paragraph 13 (criminal behaviour), 14 (anti-social behaviour) or 15 (association with person who has relevant conviction or engaged in relevant anti-social behaviour) in schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016.
- (3) The period mentioned in section 16(5A)(c) of the Housing (Scotland) Act 2001 (powers of court in possession proceedings) does not run during any period for which this paragraph has effect.
- (4) In this paragraph—
- “the 2007 Act” means the Bankruptcy and Diligence etc. (Scotland) Act 2007,
- [^{F9}“a charge for removing” means a charge to remove from subjects or premises, as required by section 216(1) (service of charge before removing) of the 2007 Act in the case of a decree for removing from heritable property,] and
- [^{F10}“a decree for removing from heritable property” means a decree, order or warrant of a type mentioned in any of the following paragraphs of section 214(2) of the 2007 Act—
- (a) paragraph (a) or (b), where the decree or warrant is obtained by a creditor in a security over land used to any extent for residential purposes following an application under either or both—
 - (i) section 5(1) (power to eject proprietor in personal occupation) of the Heritable Securities (Scotland) Act 1894, or
 - (ii) section 24(1B) (application by creditor to court for remedies on default) of the Conveyancing and Feudal Reform (Scotland) Act 1970,
 - (b) paragraph (f),
 - (c) paragraph (g), or
 - (d) paragraph (k).]]

F7	Sch. 5 para. 10A inserted (22.1.2021) by The Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No. 12) Regulations 2021 (S.S.I. 2021/17) , regs. 1(3), 6
F8	Sch. 5 para. 10A cross-heading substituted (23.1.2021) by The Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No. 14) Regulations 2021 (S.S.I. 2021/35) , regs. 1, 4(a)
F9	Words in sch. 5 para. 10A(4) substituted (23.1.2021) by The Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No. 14) Regulations 2021 (S.S.I. 2021/35) , regs. 1, 4(b)(i)
F10	Words in sch. 5 para. 10A(4) substituted (23.1.2021) by The Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No. 14) Regulations 2021 (S.S.I. 2021/35) , regs. 1, 4(b)(ii)

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