

SCHEDULE 1

Tier 2 restrictions

PART 3

Other restrictions on businesses

Restrictions on opening hours of businesses and services

15.—(1) A person responsible for carrying on a restricted business or providing a restricted service (“P”) in the Tier 2 area must not carry on that business or provide that service between the hours of 22:00 and 05:00.

(2) Where a restricted business or restricted service forms, or is provided as, part of a larger business and that larger business is not itself a restricted business, the person responsible for carrying on the larger business complies with the requirement in sub-paragraph (1) by not carrying on the restricted business, or by ceasing to provide the restricted service, between the hours of 22:00 and 05:00.

(3) Sub-paragraph (1) is subject to the exceptions in paragraph 16.

(4) In this Part of this Schedule “restricted business” and “restricted service” mean a business or service which—

- (a) is of a kind specified in paragraph 18(2) or (3), or
- (b) is carried on from, or provided at, premises of a kind specified in paragraph 18(2) or (3).

Exceptions from paragraph 15(1)

16.—(1) Paragraph 15(1) does not prevent P selling food or drink for consumption off the premises between the hours of 22:00 and 05:00—

- (a) by making deliveries 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) to a purchaser who collects the food or drink that has been pre-ordered by a means mentioned in paragraph (a)(i) to (iii), provided the purchaser does not enter inside the premises to do so, or
- (c) to a purchaser who collects the food or drink in a vehicle, and to whom the food or drink is passed without the purchaser or any other person leaving the vehicle.

(2) Where P’s restricted business or restricted service is carried on from, or provided at, a cinema, theatre or concert hall, paragraph 15(1) does not prevent P carrying on that business or providing that service at or after 22:00 hours for the purpose of concluding a performance which began before that time.

(3) Paragraph 15(1) does not prevent P carrying on a restricted business, or providing a restricted service, of a kind specified in paragraph 18(2)(a) to (c) between the hours of 22:00 and 05:00 if—

- (a) the business or service is carried on or provided within a motorway service area, and
- (b) alcohol is not served between those hours in the carrying on of the business, or the provision of the service, concerned.

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(4) Paragraph 15(1) does not prevent P carrying on a restricted business, or providing a restricted service, of a kind specified in paragraph 18(2)(a) to (e) between the hours of 22:00 and 05:00 if—

- (a) the business or service is carried on or provided within a part of—
 - (i) any airport or maritime port, or
 - (ii) the international rail terminal area within the vicinity of Cheriton, Folkstone (as referred to in section 1(7)(b) of the Channel Tunnel Act 1987⁽¹⁾),
- (b) that part of the airport, maritime port or terminal area is accessible between those hours to passengers, crew or other authorised persons but not to members of the general public, and
- (c) alcohol is not served between those hours in the carrying on of the business, or the provision of the service, concerned.

(5) Paragraph 15(1) does not prevent P carrying on a restricted business, or providing a restricted service, of a kind specified in paragraph 18(2)(a) to (e) between the hours of 22:00 and 05:00 if—

- (a) the business or service is carried on or provided in an aircraft, train or vessel,
- (b) the train or vessel is providing a public transport service, and
- (c) alcohol is not served between those hours in the carrying on the business, or the provision of the service, concerned (subject to sub-paragraph (6)(b)).

(6) In sub-paragraph (5)—

- (a) “public transport service” has the meaning given by regulation 2(2) of the Health Protection (Coronavirus, Wearing of Face Coverings on Public Transport) (England) Regulations 2020⁽²⁾, but for these purposes does not include a service provided primarily for dining or other recreational purposes.
- (b) paragraph (c) does not apply in respect of the service of alcohol to persons who are seated on an aircraft.

(7) Where P’s restricted business or restricted service is carried on from, or provided at, a workplace canteen, paragraph 15(1) does not prevent P carrying on that business or providing that service between the hours of 22:00 and 05:00 if there is no practical alternative for staff at that workplace to obtain food or drink between those hours.

(8) In this Part of this Schedule “alcohol” has the meaning given in section 191 of the Licensing Act 2003⁽³⁾.

Restrictions on service of food and drink for consumption on the premises

17.—(1) A person responsible for carrying on a restricted business, or providing a restricted service, in the Tier 2 area that falls within paragraph 18(2) and which serves alcohol for consumption on the premises may sell food or drink for consumption on the premises only if—

- (a) the food or drink is ordered by, and served to, a customer who is seated on the premises, and
- (b) the person takes all reasonable steps to ensure that the customer remains seated whilst consuming the food or drink on the premises.

(2) A person responsible for carrying on a restricted business, or providing a restricted service, in the Tier 2 area that falls within paragraph 18(2) and which does not serve alcohol for consumption on the premises may sell food or drink for consumption on the premises only if the person takes all reasonable steps to ensure that the customer remains seated whilst consuming the food or drink on the premises.

(1) 1987 c. 53.

(2) S.I. 2020/592, as amended by S.I. 2020/1021.

(3) 2003 c. 17. Section 191 was amended by the Policing and Crime Act 2017 (c. 3), section 135, and by S.I. 2006/2407.

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

(4) If a business or service falling within paragraph 18(2) (“business A”) forms part of a larger business (“business B”)—

- (a) the requirement in sub-paragraph (1)(a) does not apply where business B is a cinema, theatre or concert hall;
- (b) the person responsible for carrying on business B otherwise complies with the requirement in sub-paragraph (1) or (2) if that person complies with the requirement in relation to business A.

(5) Sub-paragraphs (1) and (2) are subject to the restriction on opening hours in paragraph 15.

Restricted businesses and services for purposes of Part 3 of this Schedule

18.—(1) The restricted businesses and restricted services for the purposes of this Part of this Schedule are those falling within sub-paragraph (2) or (3).

(2) The following businesses and services fall within this sub-paragraph—

- (a) restaurants, including restaurants and dining rooms in hotels or members’ clubs;
- (b) businesses providing food or drink prepared on the premises for immediate consumption off the premises, but not including—
 - (i) supermarkets,
 - (ii) convenience stores, corner shops and newsagents,
 - (iii) pharmacists and chemists, or
 - (iv) petrol stations;
- (c) cafes, including workplace canteens, but not including—
 - (i) cafes or canteens at a hospital, care home or school,
 - (ii) canteens at criminal justice accommodation or 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
 - (iii) services providing food or drink to the homeless;
- (d) bars, including bars in hotels or members’ clubs;
- (e) public houses;
- (f) social clubs;
- (g) casinos.

(3) The following businesses and services fall within this sub-paragraph—

- (a) bowling alleys;
- (b) cinemas;
- (c) theatres;
- (d) amusement arcades or other indoor leisure centres;
- (e) funfairs (indoors or outdoors), theme parks and adventure parks and activities;
- (f) bingo halls;
- (g) concert halls.

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