

SCHEDULE 1

Tier 3 restrictions

PART 2

Closure and restrictions on businesses

Restrictions on opening hours of businesses and services

13.—(1) A person responsible for carrying on a restricted business or providing a restricted service (“P”) in the Tier 3 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 paragraph 14.

(4) In this paragraph—

“restricted business” and “restricted service” means a business or service which—

- (a) is of a kind specified in paragraph 19(2) or (3), or
- (b) is carried on from, or provided at, premises of a kind specified in paragraph 19(2) or (3).

Exceptions from paragraph 13(1)

14.—(1) Paragraph 13(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 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 13(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 13(1) does not prevent P carrying on a restricted business, or providing a restricted service, of a kind specified in paragraph 19(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 13(1) does not prevent P carrying on a restricted business, or providing a restricted service, of a kind specified in paragraph 19(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 the restricted 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 13(1) does not prevent P carrying on a restricted business, or providing a restricted service, of a kind specified in paragraph 19(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 aircraft, train or vessel is providing a public transport service, and
- (c) alcohol is not served between those hours in the carrying on of 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, sub-paragraph (1) does not prevent P carrying on that business or 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

15.—(1) A person responsible for carrying on a restricted business, or providing a restricted service, in the Tier 3 area 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 3 area 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 restricted business or restricted service (“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 13.

(6) In this paragraph, “restricted business” and “restricted service” mean a business or service which—

- (a) is of a kind specified in paragraph 19(2);
- (b) is carried on from, or provided at, premises of a kind specified in paragraph 19(2).

Requirement to close businesses selling alcohol for consumption on the premises

16.—(1) A person responsible for carrying on a business of a public house, bar or other business involving the sale of alcohol for consumption on the premises must cease to carry on that business, unless paragraph (2) applies.

(2) This paragraph applies if alcohol is only served for consumption on the premises as part of a table meal, and the meal is 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.

(3) For the purposes of sub-paragraph (1)—

- (a) alcohol sold by a hotel or other accommodation as part of room service is not to be treated as being sold for consumption on its premises;
- (b) an area adjacent to the premises of the business where seating is made available for customers of the business (whether or not by the business), or where customers gather to drink outside the business, is to be treated as part of the premises of that business.

(4) For the purposes of this paragraph, a “table meal” is 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.

Requirement to close premises and businesses

17.—(1) A person responsible for carrying on a restricted business, or providing a restricted service, in the Tier 3 area must cease to carry on that business or provide that service.

(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 closing down the restricted business or by ceasing to provide the restricted service.

(3) The requirement in sub-paragraph (1) is subject to the exceptions in paragraph 18.

(4) In this paragraph “restricted business” and “restricted service” means a business or service which—

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- (a) is of a kind specified in paragraph 19(4), or
- (b) is carried on from, or provided at, premises of a kind specified in paragraph 19(4).

Exceptions

- 18.**—(1) Paragraph 17(1) does not prevent the use of—
- (a) any premises used for a restricted business or service to host blood donation sessions;
 - (b) facilities for training by elite sportspersons, including indoor gyms, fitness studios and indoor sports facilities;
 - (c) indoor fitness and dance studios by professional dancers and choreographers;
 - (d) indoor gyms, fitness studios and indoor sports facilities for supervised activities for children, or by persons who have a disability and who are not elite sportspersons to take part in any sport or other fitness related activity.
- (2) For the purposes of sub-paragraph (1)—
- (a) “elite sportsperson” has the meaning given in paragraph 12(10);
 - (b) a person is a professional dancer or choreographer if that person derives their living from dance, or from choreographing dance, as the case may be;
 - (c) a person who has a disability has the meaning given in paragraph 11(4).
- (3) Paragraph 17(1) does not prevent a person responsible for carrying on a restricted business or providing a restricted service (“the closed business”), from—
- (a) carrying on a business of offering goods for sale or for hire in a shop which is separate from the premises used for the closed business,
 - (b) carrying on a business of offering goods for sale or for hire by making deliveries or otherwise providing 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.

Restricted business and services for purposes of Part 2 of this Schedule

- 19.**—(1) The restricted businesses and restricted services for the purposes of this Part of this Schedule are those falling within sub-paragraphs (2), (3) or (4).
- (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.
- (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.
- (4) The following businesses and services fall within this sub-paragraph—
- (a) nightclubs;
 - (b) dance halls;
 - (c) discotheques;
 - (d) any other venue (not falling with paragraph (b) or (c)) which—
 - (i) opens at night,
 - (ii) has a dance floor or other space for dancing by members of the public (and for these purposes members of the venue in question are to be considered members of the public), and
 - (iii) provides music, whether live or recorded, for dancing;
 - (e) sexual entertainment venues;
 - (f) hostess bars;
 - (g) casinos;
 - (h) betting shops and adult gaming centres;
 - (i) indoor gyms, fitness and dance studios;
 - (j) indoor sports facilities.
- (5) A business or service does not fall within sub-paragraph (4)(b), (c) or (d) if it ceases to provide music and dancing.
- (6) In sub-paragraph (4)(e) “sexual entertainment venue” has the meaning given in paragraph 2A of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982(4).
- (7) In sub-paragraph (4)(f) “hostess bar” has the meaning given by paragraph 3B of that Schedule(5).

(4) 1982 c. 30. Paragraph 2A was inserted by section 27 of the Policing and Crime Act 2009 (c. 26).

(5) Paragraph 3B was inserted by section 33 of the London Local Authorities Act 2007 (c. ii).