

SCHEDULE 3

Tier 3 restrictions

PART 2

Closure of, and restrictions on, businesses

Exceptions to paragraph 9

11.—(1) Paragraph 9(1) does not prevent the person responsible for carrying on a restricted business, or providing a restricted service, of a kind specified in paragraph 13(6)—

- (a) from selling food or drink for consumption off the premises between the hours of 05:00 and 23:00;
- (b) from selling food or drink for consumption off the premises between the hours of 23:00 and 05:00 by a method of sale permitted by sub-paragraph (2).

(2) The methods of sale permitted under this sub-paragraph are—

- (a) making deliveries in response to orders received—
 - (i) through a website, or otherwise by online communication,
 - (ii) by telephone, including orders by text message, or
 - (iii) by post,
- (b) providing food or drink to a purchaser who collects the food or drink that has been pre-ordered by a means mentioned in sub-paragraph (a), provided the purchaser does not enter inside the premises to do so, or
- (c) providing food or drink 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.

(3) Paragraph 9(1) does not prevent the person responsible for a carrying on a restricted business, or providing a restricted service, of a kind specified in paragraph 13(6)(a) to (e) from carrying on that business, or providing that service, 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 in the carrying on of the business, or the provision of the service, concerned (subject to sub-paragraph (4)(b)).

(4) In sub-paragraph (3)—

- (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, 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.

(5) Paragraph 9(1) does not prevent the person responsible for carrying on a restricted business, or providing a restricted services of a kind specified in paragraph 13(6)(a) to (e) from selling food or drink for consumption off the premises if—

- (a) the business or service is carried on or provided within—
 - (i) a motorway service area,

Status: This is the original version (as it was originally made).

(ii) a part of—

(aa) any airport or maritime port, or

(bb) the international rail terminal within the vicinity of Cheriton, Folkestone (as referred to in section 1(7)(b) of the Channel Tunnel Act 1987),

(b) in the case of a business or service falling within paragraph (a)(ii), that part of the airport, maritime port or terminal area is accessible to passenger, crew or other authorised persons but not to members of the general public, and

(c) alcohol is not served between the hours of 23:00 and 05:00 in the carrying on of the business, or the provision of the service, concerned.

(6) Where a restricted business or restricted service of a kind specified in paragraph 13(6)(a) or (b) is carried on or provided as part of an extra care housing scheme, paragraph 9(1) does not prevent the person responsible for carrying on that business, or providing that service, from providing food or drink for consumption on the premises by a relevant person where it is reasonably necessary to do so for the purpose of safeguarding the mental or physical health of the relevant person.

(7) For the purposes of sub-paragraph (6) and this sub-paragraph—

(a) “extra care housing scheme” means a scheme—

(i) that provides accommodation intended for occupation by adults with needs for care and support (“designated extra care accommodation”), and

(ii) with an on-site care service;

(b) “relevant person” means, in relation to a business or service carried on or provided as part of an extra care housing scheme or for use by residents of an extra care housing scheme, a resident of the designated extra care accommodation;

(c) “on-site care service” means regulated personal or nursing care provided to residents as part of the scheme by—

(i) the extra care housing scheme provider, or

(ii) another registered care provider who maintains an on-site presence in accordance with an agreement with either or both of the extra care housing scheme provider or the local social services authority in which the scheme is situated;

(d) “registered care provider” means a person registered as a service provider in respect of regulated personal or nursing care in accordance with Chapter 2 of Part 1 of the Health and Social Care Act 2008(1);

(e) “local social services authority” means the council of a non-metropolitan county, of a county borough or of a metropolitan district or London borough, or the Common Council of the City of London.

(8) For the purposes of sections 172F to 172J of the Licensing Act 2003, where a restricted business or restricted service is carried on from, or provided at, licenced premises, the premises are to be treated as open for the purposes of selling alcohol at any time when the premises licence for those premises would, but for paragraph 9(1), authorise the sale by retail of alcohol for consumption on the premises.

(1) 2008 c. 14.