

SCHEDULE 2

Tier 2 restrictions

PART 3

Other restrictions on businesses

Restrictions on opening hours of businesses and services

11.—(1) A person responsible for carrying on a restricted business or providing a restricted service (“P”) in the Tier 2 area must not—

- (a) accept, between the hours of 22:00 and 05:00, any orders for food or drink for consumption on the premises,
- (b) carry on that business or provide that service between the hours of 23:00 and 05:00.

(2) For the purposes of sub-paragraph (1), 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.

(3) 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 need only comply with the requirements in sub-paragraph (1) in relation to the restricted business or restricted service.

(4) Sub-paragraph (1) is subject to the exceptions in paragraph 12.

(5) 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 15(2) or (3), or
 - (b) is carried on from, or provided at, premises of a kind specified in paragraph 15(2) or (3).
- (6) For the purposes of this Part of this Schedule, premises are in the Tier 2 area if—
- (a) any part of the premises is in the Tier 2 area, and
 - (b) no part of the premises is in the Tier 3 area.

Exceptions from paragraph 11(1)

12.—(1) Paragraph 11(1) does not prevent P selling, between the hours of 23:00 and 05:00, food or drink for consumption off the premises—

- (a) by 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) to a purchaser who collects the food or drink that has been pre-ordered by a means mentioned in paragraph (a), 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.

Status: This is the original version (as it was originally made).

(2) Where P's restricted business or restricted service is carried on from, or provided at, a cinema, theatre, concert hall or sportsground, paragraph 11(1) does not prevent P carrying on that business or providing that service at or after 23:00 hours for the purpose of concluding a performance or a sports event which began before 22:00.

(3) Paragraph 11(1)(b) does not prevent P carrying on a restricted business, or providing a restricted service, of a kind specified in paragraph 15(2)(a) to (c) between the hours of 23:00 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,

and, in relation to any such business or service, paragraph 11(1)(a) does not prevent P accepting orders at or after 22:00 hours for food or drink other than alcohol.

(4) Paragraph 11(1)(b) does not prevent P carrying on a restricted business, or providing a restricted service, of a kind specified in paragraph 15(2)(a) to (e) between the hours of 23:00 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, Folkestone (as referred to in section 1(7)(b) of the Channel Tunnel Act 1987),
- (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,

and, in relation to any such business or service, paragraph 11(1)(a) does not prevent P accepting orders at or after 22:00 hours for food or drink other than alcohol.

(5) Paragraph 11(1)(b) does not prevent P carrying on a restricted business, or providing a restricted service, of a kind specified in paragraph 15(2)(a) to (e) between the hours of 23:00 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)),

and, in relation to any such business or service, paragraph 11(1)(a) does not prevent P accepting orders at or after 22:00 hours for food or drink in an aircraft, train or vessel, but not alcohol so far relating to orders from customers on a train or vessel.

(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, 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 or premises at a higher education provider, paragraph 11(1)(b) does not prevent P carrying on that business or providing that service between the hours of 23:00 and 05:00 if—

- (a) there is no practical alternative for staff at that workplace, or for staff or students at those premises, to obtain food or drink between those hours, and
- (b) alcohol is not served between those hours in the carrying on of the business, or the provision of the service, concerned,

and, in relation to any such business or service, paragraph 11(1)(a) does not prevent P accepting orders at or after 22:00 hours for food or drink other than alcohol.

(8) Paragraph 11(1) does not prevent the use of premises used for a restricted business or a restricted service to provide essential voluntary services or urgent public support services, including the provision of food banks or other support for the homeless or vulnerable people, blood donation sessions or support in an emergency.

(9) Paragraph 11(1) does not prevent the use of premises used for a restricted business or restricted service for the making of a film, television programme, audio programme or audio-visual advertisement.

(10) Paragraph 11(1) does not prevent the use of any premises for the purposes of voting, counting of votes or activities ancillary to voting or the counting of votes in an election or referendum which is held—

- (a) in accordance with provision made by or under an Act, or
- (b) in accordance with the laws or regulations of another country or territory, but in respect of which arrangements are made by a consular post or diplomatic mission in the United Kingdom for persons eligible to vote in that election or referendum to vote in the United Kingdom.

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

13.—(1) A person responsible for carrying on a restricted business, or providing a restricted service, in the Tier 2 area that falls within paragraph 15(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 15(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.

(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 15(2) (“business A”) forms part of a larger business (“business B”)—

- (a) sub-paragraph (1)(a) does not apply to the service of food or drink if the condition in sub-paragraph (5) is met, and
- (b) the person responsible for carrying on business B complies with the requirement in sub-paragraph (1) or (2) if that person complies with the requirement in relation to business A.

(5) The condition in this sub-paragraph is met (subject to sub-paragraph (6)) if—

- (a) business B is a cinema, theatre, concert hall or sportsground,

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

- (b) the food or drink is ordered by a customer who has a ticket for an exhibition of a film, a performance or an event of training or competition at the venue, and
 - (c) the food or drink is served to the customer to consume in the area where the audience is seated at the venue to watch the exhibition, performance or event.
- (6) The condition in sub-paragraph (5) is not met where a customer has a seat in a catered corporate box.

Requirement to close businesses selling alcohol for consumption on the premises

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

(2) This sub-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 breakfast, the main midday or main evening meal, or as a main course at such a meal.

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

- (a) alcohol provided by a hotel or other accommodation as part of room service is not to be treated as being provided 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 which 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.

(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.

(5) Sub-paragraph (1) does not apply—

- (a) where alcohol is being provided to a customer at a cinema, theatre, concert hall or sportsground, and
- (b) the alcohol is ordered by, and served to, a customer who has a ticket for an exhibition of a film, a performance or an event of training or competition at the venue, to consume in the area where the audience is seated to watch the exhibition, performance or event.

(6) The condition in sub-paragraph (5)(b) is not satisfied where a customer has a seat in a catered corporate box.

(7) Sub-paragraph (1) does not prevent the use of any premises for the purposes of voting, counting of votes or activities ancillary to voting or the counting of votes in an election or referendum which is held—

- (a) in accordance with provision made by or under an Act, or
- (b) in accordance with the laws or regulations of another country or territory, but in respect of which arrangements are made by a consular post or diplomatic mission in the United Kingdom for persons eligible to vote in that election or referendum to vote in the United Kingdom.

(8) Sub-paragraph (1) does not prevent the use of premises to provide essential voluntary services or urgent public support services, including the provision of food banks or other support for the homeless or vulnerable people, blood donation sessions or support in an emergency.

(9) Sub-paragraph (1) does not prevent the use of premises for the making of a film, television programme, audio programme or audio-visual advertisement

(10) For the purposes of sections 172F to 172J(1) 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 sub-paragraph (1), authorise the sale by retail of alcohol for consumption on the premises.

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

15.—(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, school, educational accommodation for students attending higher education courses or provider of post-16 education or training (as defined in paragraph 1(8) of Schedule 17 to the Coronavirus Act 2020),
 - (ii) canteens at criminal justice accommodation, immigration detention 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, including adult gaming centres;
- (e) funfairs and fairgrounds (indoors or outdoors), theme parks and adventure parks and activities;
- (f) bingo halls;
- (g) concert halls;
- (h) sportsgrounds.

(1) Sections 172F to 172J were inserted by the Business and Planning Act 2020 (c. 16), section 11(2).