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SCOTTISH STATUTORY INSTRUMENTS

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**2020 No. 344**

**PUBLIC HEALTH**

**The Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020**

*Approved by the Scottish Parliament*

<i>Made</i>	- - - -	<i>at 12.40 p.m. on</i>
		<i>30th October 2020</i>
<i>Laid before the Scottish</i>		<i>at 2.45 p.m. on 30th</i>
<i>Parliament</i>	- - - -	<i>October 2020</i>
		<i>at 6.00 a.m. on 2nd</i>
<i>Coming into force</i>	- -	<i>November 2020</i>

The Scottish Ministers make the following Regulations in exercise of the power conferred by paragraph 1(1) of schedule 19 of the Coronavirus Act 2020(1) (“the Act”) and all other powers enabling them to do so.

These Regulations are made in response to the serious and imminent threat to public health which is posed by the incidence and spread of coronavirus in Scotland.

The Scottish Ministers consider that the restrictions and requirements imposed by these Regulations are proportionate to what they seek to achieve, which is a public health response to that threat.

In accordance with paragraph 6(2) and (3) of schedule 19 of the Act, the Scottish Ministers are of the opinion that, by reason of urgency, it is necessary to make these Regulations without a draft having been laid before, and approved by, a resolution of the Scottish Parliament.

**PART 1**

**Introductory**

**Citation, commencement and application**

1.—(1) These Regulations may be cited as the Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020 and come into force at 6.00 a.m. on 2 November 2020.

(2) These Regulations apply in—

(a) Scotland, and

- (b) Scottish airspace, in relation to a person who is on a mode of transport which took off from, or is to land at, a place in Scotland.
- (3) In paragraph (2)—
- “Scotland” includes so much of the internal waters and territorial sea of the United Kingdom as are adjacent to Scotland, and
- “Scottish airspace” means the airspace above Scotland.

## Interpretation

- 2.—(1) In these Regulations—
- “alcohol” has the same meaning as in section 2 of the Licensing (Scotland) Act 2005<sup>(2)</sup>,
- “child” means a person who is under 16 years of age, and “childcare” is to be construed accordingly,
- “constable” has the meaning given by section 99(1) of the Police and Fire Reform (Scotland) Act 2012<sup>(3)</sup>,
- “contact sport” means a sport or activity during which the participants—
- (a) are required to make physical contact with each other, or
- (b) do not generally maintain a distance of two metres from each other,
- but does not include a sport or activity in which the participants are wholly or mainly professional sportspersons,
- “elite development pathway” means a development pathway established by the national governing body of a sport to prepare sportspersons—
- (a) so that they may derive a living from competing in that sport, or
- (b) to compete at that sport at the Tokyo or Beijing Olympic or Paralympic Games, or, if that sport is not part of the Tokyo Olympic and Paralympic Games programme, in the Commonwealth Games to be held in Birmingham,
- “emergency responder” has the meaning given by section 153A(6) of the Inheritance Tax Act 1984<sup>(4)</sup>,
- “extended household” means two individual households which have chosen to be treated as the same household for the purposes of the restrictions in these Regulations, but an individual household may only form part of one extended household at any one time,
- “face covering” means a covering of any type (other than a face shield) which covers a person’s nose and mouth,
- “food and drink business” means—
- (a) a restaurant, including a restaurant or dining room in a hotel or members’ club,
- (b) a takeaway service,
- (c) a cafe or canteen,
- (d) a bar, including a bar in a hotel or members’ club,
- (e) a public house,
- “gathering” means a situation where two or more persons, who are not members of the same household, are present together in the same place in order—
- (a) to engage in any form of social interaction with each other, or

(2) 2005 asp 16. Section 2 was amended by section 54 of the Air Weapons and Licensing (Scotland) Act 2015 (asp 10).

(3) 2012 asp 8.

(4) 1984 c.51. Section 153A was inserted by section 75 of the Finance Act 2015 (c.11).

(b) to undertake any other activity with each other,

“household” means—

(a) one person living alone, or

(b) a group of persons living together in the same place as a family or other unit (whether or not related) and who have the place as their only or main residence,

“indoors” means a place which would be considered to be wholly or substantially enclosed for the purposes of section 4(2) of the Smoking, Health and Social Care (Scotland) Act 2005<sup>(5)</sup> under the Prohibition of Smoking in Certain Premises (Scotland) Regulations 2006<sup>(6)</sup>, and “outdoors” is to be construed accordingly,

“Level 0 area”, “Level 1 area”, “Level 2 area”, “Level 3 area” and “Level 4 area” have the meanings given in regulation 3(6),

“passenger transport service” means a service provided for the carriage of passengers by road, railway, tramway, air or sea,

“passenger transport service premises” means off-road premises where a passenger transport service may stop or terminate, allowing passengers on and off,

“a person who is responsible for carrying on a business” and similar expressions include the owner, occupier and manager,

“premises” includes any building or structure and any land,

“private dwelling” means a caravan, houseboat or any building, or part of a building, used or intended to be used as a dwelling (including any garden or yard and any indoor passage or stair, outhouse or other structure of the dwelling) but does not include—

(a) accommodation in a hotel, hostel, members club, boarding house or bed and breakfast,

(b) accommodation provided by a care home service, within the meaning of paragraph 2 of schedule 12 of the Public Services Reform (Scotland) Act 2010<sup>(7)</sup>,

(c) accommodation for children at a residential establishment, within the meaning of section 93(1) of the Children (Scotland) Act 1995<sup>(8)</sup>,

(d) school boarding accommodation, within the meaning of paragraph 10(5) of schedule 16 of the Coronavirus Act 2020<sup>(9)</sup>,

(e) accommodation intended for use by the army, navy or air force,

(f) a prison,

(g) a young offenders institution, within the meaning of section 19(1)(b) of the Prisons (Scotland) Act 1989<sup>(10)</sup>,

(h) secure accommodation, within the meaning of section 108 of the Criminal Justice (Scotland) Act 2016<sup>(11)</sup>, and

(i) a remand centre, within the meaning of section 19(1)(a) of the Prisons (Scotland) Act 1989,

“professional sportsperson” means an individual who—

(a) derives a living from competing in sport,

(b) is a senior representative nominated by a relevant sporting body,

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<sup>(5)</sup> 2005 asp 13.

<sup>(6)</sup> S.S.I. 2006/90.

<sup>(7)</sup> 2010 asp 8.

<sup>(8)</sup> 1995 c.36, relevantly amended by S.I. 2013/1465.

<sup>(9)</sup> 2020 c.7.

<sup>(10)</sup> 1989 c.45, relevantly amended by section 23(1) of the Criminal Justice (Scotland) Act 2003 (asp 7).

<sup>(11)</sup> 2016 asp 1.

(c) is a member of the senior training squad for a relevant sporting body, or

(d) is not a child and is on an elite development pathway,

“public place” means a place to which the public, or a section of the public, has access whether on payment or otherwise,

“public procession” means a procession in a public place, whether or not involving the use of vehicles or other conveyances,

“relevant sporting body”, in relation to a professional sportsperson means the national governing body of a sport which may nominate sportspersons to represent—

(a) the professional sportsperson’s nation at the Tokyo or Beijing Olympic or Paralympic Games, or

(b) the professional sportsperson’s nation at the Commonwealth Games to be held in Birmingham in a sport that is not part of the Tokyo Olympic and Paralympic Games programme,

“school” has the meaning given by section 135(1) of the Education (Scotland) Act 1980<sup>(12)</sup>,

“senior representative”, in relation to a professional sportsperson, means an individual who is considered by a relevant sporting body to be a candidate to qualify to compete on behalf of—

(a) the professional sportsperson’s nation at the Tokyo or Beijing Olympic or Paralympic Games, or

(b) the professional sportsperson’s nation at the Commonwealth Games to be held in Birmingham in a sport that is not part of the Tokyo Olympic and Paralympic Games programme,

“shared parenting arrangements” includes, in relation to children who do not live in the same household as their parents, or one of their parents, arrangements for contact between parents and their children, and for the purposes of this definition “parent” includes a person who, not being a parent of the child—

(a) has contact with the child pursuant to an order of court, or

(b) has previously had care of the child, and

“student accommodation” has the meaning given in paragraph 11(5) of schedule 16 of the Coronavirus Act 2020.

(2) For the purpose of these Regulations, references to a household include an extended household.

## PART 2

### Restrictions

#### Application of the Restrictions

3.—(1) The restrictions and requirements set out in schedule 1 (“Level 0 restrictions”) and schedule 7 (face covering requirements) apply in relation to a Level 0 area.

(2) The restrictions and requirements set out in schedule 2 (“Level 1 restrictions”) and schedule 7 apply in relation to a Level 1 area.

<sup>(12)</sup> 1980 c.44, amended by section 2 of the Registered Establishments (Scotland) Act 1987 (c.4) and schedule 3 of the Standards in Scotland’s Schools etc. Act 2000 (asp 6).

(3) The restrictions and requirements set out in schedule 3 (“Level 2 restrictions”) and schedule 7 apply in relation to a Level 2 area.

(4) The restrictions and requirements set out in schedule 4 (“Level 3 restrictions”) and schedule 7 apply in relation to a Level 3 area.

(5) The restrictions and requirements set out in schedule 5 (“Level 4 restrictions”) and schedule 7 apply in relation to a Level 4 area.

(6) In these Regulations—

- (a) a “Level 0 area” is an area specified in the table in schedule 6, where the table indicates it is a Level 0 area,
- (b) a “Level 1 area” is an area so specified, where the table indicates it is a Level 1 area,
- (c) a “Level 2 area” is an area so specified, where the table indicates it is a Level 2 area,
- (d) a “Level 3 area” is an area so specified, where the table indicates it is a Level 3 area, and
- (e) a “Level 4 area” is an area so specified, where the table indicates it is a Level 4 area.

## PART 3

### Enforcement

#### **Enforcement of requirements**

4.—(1) A relevant person may take such action as is necessary to enforce any requirement imposed by these Regulations.

(2) A relevant person may give a prohibition notice to a person if the relevant person reasonably believes that—

- (a) the person is contravening a requirement in these Regulations, and
- (b) it is necessary and proportionate to give the prohibition notice for the purpose of preventing that person from continuing to contravene the requirement.

(3) Where the person contravening a requirement in these Regulations is a child accompanied by an individual who has responsibility for the child—

- (a) the relevant person may direct that individual to take the child to the place where they are living, and
- (b) that individual must, so far as reasonably practicable, ensure that the child complies with a direction or instruction given by the relevant person to the child.

(4) Where a relevant person has reasonable grounds to believe that a child is repeatedly failing to comply with a requirement mentioned in paragraph (5), the relevant person may direct any individual who has responsibility for the child to secure, so far as reasonably practicable, that the child complies with that requirement.

(5) The requirements mentioned in paragraph (4) are those in Part 3 of each of schedules 1 to 5.

(6) For the purpose of this regulation, an individual has responsibility for a child if the individual has—

- (a) care or control of the child for the time being, or
- (b) parental responsibilities, within the meaning of section 1(3) of the Children (Scotland) Act 1995(13), in relation to the child.

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(13) 1995 c.36.

(7) Where a relevant person considers that persons are gathered together in contravention of the requirements mentioned in paragraph (5), the relevant person may—

- (a) direct the gathering to disperse,
- (b) direct any person in the gathering to return to the place where the person is living, or
- (c) remove any person in the gathering to the place where the person is living.

(8) A relevant person may only exercise a power in paragraph (3), (4) or (7) if the relevant person considers that it is a necessary and proportionate means of ensuring compliance with the requirement.

(9) A relevant person exercising a power under paragraph (3), (4) or (7) may give the person concerned any reasonable instructions the relevant person considers necessary.

(10) A constable, exercising the power in paragraph (7)(c) to remove a person to the place where the person is living, may use reasonable force, if necessary, in exercise of the power.

(11) For the purpose of this regulation, a “relevant person” means—

- (a) a constable, or
- (b) subject to paragraph (12), a person designated by a local authority.

(12) A local authority may only designate a person for the purpose of this regulation in relation to the requirements in Part 1 (closure of premises) and Part 2 (other restrictions on business) in each of schedules 1 to 5.

(13) For the purpose of this Part, references to a requirement include references to a restriction.

### **Offences and penalties**

**5.—**(1) It is an offence for a person to contravene any of the restrictions or requirements in schedules 1 to 5 and 7 other than a restriction or requirement in—

- (a) schedule 1, paragraphs 3(b) and 4,
- (b) schedule 2, paragraphs 4(b) and 5,
- (c) schedule 3, paragraphs 7(b) and 8,
- (d) schedule 4, paragraphs 6(b) and 7, or
- (e) schedule 5, paragraphs 8(b) and 9.

(2) It is an offence for a person to obstruct any person carrying out a function under these Regulations.

(3) It is an offence for a person to—

- (a) contravene a direction given under regulation 4, or
- (b) fail to comply with an instruction or prohibition notice given under regulation 4.

(4) It is a defence to a charge of committing an offence under paragraph (1), (2) or (3) to show that the person, in the circumstances, had a reasonable excuse.

(5) A person who commits an offence under this regulation is liable, on summary conviction, to a fine not exceeding the statutory maximum.

(6) If an offence under this regulation committed by a body corporate is proved to—

- (a) have been committed with the consent or connivance of an officer of the body, or
- (b) be attributable to any neglect on the part of such an officer,

the officer (as well as the body corporate) commits the offence and is liable to be prosecuted and proceeded against and punished accordingly.

(7) In paragraph (6), “officer” in relation to a body corporate means in the case of—

- (a) a company—

- (i) a director, secretary, manager or similar officer, or
- (ii) where the affairs of the company are managed by its members, a member,
- (b) a limited liability partnership, a member,
- (c) a partnership other than a limited liability partnership, a partner, or
- (d) another body or association, a person who is concerned in the management or control of its affairs.

### **Power of entry**

6.—(1) A relevant person may enter premises—

- (a) for the purpose of the performance of that person’s functions under these Regulations, and
- (b) if the condition in paragraph (3)(a) is met.

(2) A relevant person may enter premises at any time if—

- (a) that person reasonably suspects that an offence under regulation 5(1) is taking place on the premises,
- (b) that person reasonably believes that it is necessary and proportionate to enter the premises for the purpose of preventing the continuation of the offence, and
- (c) a condition in paragraph (3)(b), (c) or (d) is met.

(3) The condition is that—

- (a) the person who appears to be the occupier of the premises has consented to the relevant person entering the premises,
- (b) the relevant person—
  - (i) has requested permission to enter the premises from the person who appears to be the occupier of the premises, but permission has been refused, and
  - (ii) reasonably believes the situation to be urgent,
- (c) the occupier of the premises is temporarily absent and the relevant person reasonably believes the situation to be urgent, or
- (d) the entry is effected under the authority of a warrant issued under paragraph (10).

(4) For the purposes of paragraph (3)(b)(ii) and (c), a reasonable belief in urgency means that the relevant person considers immediate entry to the premises to be necessary and proportionate for the purpose of preventing the continuation of the offence and for the purpose of preventing, protecting against, controlling or providing a public health response to the incidence or spread of infection or contamination with coronavirus.

(5) Where the offence referred to in paragraph (2)(a) is a contravention of paragraph 8 of schedule 1, paragraph 9 of schedule 2, paragraph 12 of schedule 3, paragraph 11 of schedule 4 or paragraph 13 of schedule 5, a constable must reasonably suspect that there is a gathering inside a private dwelling which consists of more than six persons.

(6) A relevant person entering premises in accordance with paragraph (1) or (2) may—

- (a) use reasonable force to enter the premises if necessary, and
- (b) take such other persons, equipment and materials onto the premises as the relevant person considers necessary.

(7) A relevant person must, if requested to do so, provide a document or any other thing showing the relevant person’s authority to exercise the power of entry in this regulation.

(8) Subject to paragraph (9), for the purposes of this regulation, “relevant person” has the meaning in regulation 4(11).

(9) A relevant person within the meaning of regulation 4(11)(b) may only enter premises in relation to a requirement in Part 1 (closure of premises) or Part 2 (other restrictions on business) in any of schedules 1 to 5.

(10) A sheriff or justice of the peace may by warrant authorise a relevant person to enter the premises.

(11) A warrant under this regulation continues in force until the purpose for which it is issued is fulfilled.

### **Fixed penalty notices**

7.—(1) A relevant person may issue a fixed penalty notice to a person the relevant person believes—

- (a) has committed an offence under these Regulations, and
- (b) is 18 years of age or over.

(2) A fixed penalty notice is a notice offering the person to whom it is issued the opportunity of discharging any liability to conviction for the offence by payment of a fixed penalty in accordance with these Regulations.

(3) The penalty payable in respect of a fixed penalty notice, subject to paragraphs (4) and (5), is £60.

(4) Unless paragraph (5) applies, if £30 is paid before the end of the period of 28 days beginning with the date of the fixed penalty notice, then that is the amount of the fixed penalty (and the fixed penalty notice must make known the effect of this paragraph).

(5) If the person to whom a fixed penalty notice is given has already received a fixed penalty notice under these Regulations—

- (a) paragraph (4) does not apply, and
- (b) the penalty payable in the case of—
  - (i) the second fixed penalty notice received is £120,
  - (ii) the third and subsequent fixed penalty notice received is double the amount specified in the last fixed penalty notice received by that person, to a maximum of £960.

(6) For the purpose of paragraph (5), a fixed penalty notice issued under the following provisions is to be treated as if it were issued under these Regulations—

- (a) regulation 16 of the Health Protection (Coronavirus) (Restrictions and Requirements) (Scotland) Regulations 2020(**14**),
- (b) regulation 9 of the Health Protection (Coronavirus) (Restrictions) (Scotland) Regulations 2020(**15**),
- (c) regulation 8 of the Health Protection (Coronavirus, Restrictions) (Aberdeen City) Regulations 2020(**16**),
- (d) regulation 13 of the Health Protection (Coronavirus, Restrictions) (Directions by Local Authorities) (Scotland) Regulations 2020(**17**), and
- (e) regulation 27 of the Health Protection (Coronavirus) (Restrictions and Requirements) (Additional Temporary Measures) (Scotland) Regulations 2020(**18**).

(7) For the purpose of these Regulations—

(14) [S.S.I. 2020/279](#).

(15) [S.S.I. 2020/103](#), revoked by [S.S.I. 2020/279](#).

(16) [S.S.I. 2020/234](#), amended by [S.S.I. 2020/253](#).

(17) [S.S.I. 2020/262](#).

(18) [S.S.I. 2020/318](#).

- (a) the form of a fixed penalty notice,
- (b) the effect of a fixed penalty notice, and
- (c) the procedure that applies to a fixed penalty notice,

are the same as those that apply to a fixed penalty notice given under section 129(1) of the Antisocial Behaviour etc. (Scotland) Act 2004<sup>(19)</sup>, as provided for in sections 129 to 134 of that Act and sections 226B and 226I of the Criminal Procedure (Scotland) Act 1995<sup>(20)</sup>, subject to the modifications in paragraph (8).

(8) The modifications are—

- (a) section 129(1) is to be disregarded,
- (b) the definitions of “fixed penalty notice” in sections 129(2) and 134 are to be construed as a reference to a notice under paragraph (1),
- (c) the definition of “prescribed area” in section 129(2) is to be disregarded,
- (d) section 130(1), (2) and (3)(f) is to be disregarded,
- (e) the references to “section 129” in section 131(1) and section 133(1) are to be construed as references to this regulation,
- (f) in section 131(5)—
  - (i) the reference to “in accordance with this Part” is to be construed as a reference to these Regulations, and
  - (ii) the reference to “a sum equal to one and a half times” is to be disregarded,
- (g) the references to “constable” in section 133(1) are to be construed as references to the relevant person within the meaning of this regulation,
- (h) the definition of “fixed penalty offence” in section 134 is to be construed as though it referred to an offence of the type referred to in paragraph (1)(a), and
- (i) in section 226B(5)(a)(ii) of the Criminal Procedure (Scotland) Act 1995—
  - (i) the reference to “by virtue of section 131(5) of the Antisocial Behaviour etc. (Scotland) Act 2004” is to be construed as a reference to that section as modified by this paragraph, and
  - (ii) the reference to “a fixed penalty notice given under section 129 (fixed penalty notices) of that Act” is to be construed as a reference to section 129 of the Antisocial Behaviour etc. (Scotland) Act 2004 as modified by this paragraph.

(9) For the purpose of this regulation, “relevant person” has the meaning given in regulation 4(11).

(10) Where the relevant person issuing a notice under paragraph (1) is a relevant person within the meaning of regulation 4(11)(b), the relevant person may require the person believed to have committed an offence (“A”) to give A’s name and address.

(11) When making that requirement, the relevant person must inform A that—

- (a) the relevant person believes A has committed an offence under these Regulations, and
- (b) failure to comply with the requirement may be an offence.

(12) If A has been required under this section to give A’s name and address and, without reasonable excuse, fails to do so, A will be guilty of an offence and liable, on summary conviction, to a fine not exceeding the statutory maximum.

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<sup>(19)</sup> 2004 asp 8.

<sup>(20)</sup> 1995 c.46. Sections 226B and 226I were inserted by section 55 of the Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6). Sections 226B and 226I have been amended but none of the amendments are relevant to these Regulations.

## PART 4

### Final provisions

#### Review of restrictions and requirements

8.—(1) The Scottish Ministers must review these Regulations at least every 21 days, with the first review to be carried out by 18 November 2020.

(2) As soon as the Scottish Ministers consider that any restriction or requirement set out in these Regulations is no longer necessary to prevent, protect against, control or provide a public health response to the incidence or spread of infection in Scotland with coronavirus, the Scottish Ministers must revoke that restriction or requirement.

(3) As soon as the Scottish Ministers consider that it is no longer necessary or proportionate for the Level 0 restrictions, Level 1 restrictions, Level 2 restrictions Level 3 restrictions or Level 4 restrictions to apply to an area specified in schedule 6, the Scottish Ministers must amend the Regulations so that those restrictions no longer apply to that area.

#### Expiry

9.—(1) These Regulations expire on 31 March 2021.

(2) This regulation does not affect the validity of anything done pursuant to these Regulations before they expire.

#### Amendment of the Health Protection (Coronavirus, Restrictions) (Directions by Local Authorities) (Scotland) Regulations 2020

10.—(1) In the Health Protection (Coronavirus, Restrictions) (Directions by Local Authorities) (Scotland) Regulations 2020(21)—

(a) after regulation 11 (enforcement of requirements), insert—

##### “Power of entry

11A.—(1) A local authority designated officer may enter premises—

(a) for the purpose of the performance of the officer’s functions under these Regulations, and

(b) if the condition in paragraph (3)(a) is met.

(2) A local authority designated officer may enter premises if—

(a) the officer reasonably believes that—

(i) a direction under regulation 5(1), 6(1) or 7(1) is being, has been or is about to be contravened, and

(ii) it is necessary and proportionate to enter the premises for the purpose of—

(aa) ascertaining whether a contravention is taking, has taken or is about to take place,

(bb) preventing the initiation or continuation of the contravention, and

(b) a condition in paragraph (3)(b), (c) or (d) is met.

(3) The condition is that—

- (a) the person who appears to be the occupier of the premises has consented to the local authority designated officer entering the premises,
- (b) the local authority designated officer—
  - (i) has requested permission to enter the premises from the person who appears to be the occupier of the premises, but permission has been refused, and
  - (ii) reasonably believes the situation to be urgent,
- (c) the occupier of the premises is temporarily absent and the local authority designated officer reasonably believes the situation to be urgent, or
- (d) the entry is effected under the authority of a warrant issued under paragraph (8).

(4) For the purposes of paragraph (3)(b)(ii) and (c), a reasonable belief in urgency means that the local authority designated officer considers immediate entry to the premises to be necessary and proportionate for the purpose of preventing the continuation of the contravention and for the purpose of preventing, protecting against, controlling or providing a public health response to the incidence or spread of infection or contamination of coronavirus.

(5) A local authority designated officer entering premises in accordance with paragraph (2) may—

- (a) use reasonable force to enter the premises if necessary, and
- (b) take such other persons, equipment and materials onto the premises as the local authority designated officer considers necessary.

(6) A local authority designated officer must, if requested to do so, provide a document or any other thing showing the officer's authority to exercise the power of entry in this regulation.

(7) For the purpose of this regulation, "premises" includes any building or structure and any land.

(8) A sheriff or justice of the peace may by warrant authorise a relevant person to enter the premises.

(9) A warrant under this regulation continues in force until the purpose for which it is issued is fulfilled.", and

- (b) in regulation 13 (fixed penalty notices)—
  - (i) in paragraph (1), after "constable", in both places where it occurs, insert "or local authority designated officer",
  - (ii) in paragraph (6), after sub-paragraph (b), insert—
    - “(c) regulation 16 of the Health Protection (Coronavirus) (Restrictions and Requirements) (Scotland) Regulations 2020,
    - (d) regulation 27 of the Health Protection (Coronavirus) (Restrictions and Requirements) (Additional Temporary Measures) (Scotland) Regulations 2020.”,
  - (iii) in paragraph (8), after sub-paragraph (f), insert—
    - “(ff) the references to “constable” in section 133(1) are to be construed as references to a constable or local authority designated officer,” , and
  - (iv) after paragraph (8), insert—

“(9) Where the person issuing a notice under paragraph (1) is a local authority designated officer, the officer may require the person believed to have committed an offence (“A”) to give A’s name and address.

(10) When making that requirement, the officer must inform A—

(a) that the officer believes A has committed an offence under these Regulations, and

(b) that failure to comply with the requirement may be an offence.

(11) If A has been required under this section to give A’s name and address and, without reasonable excuse, fails to do so, A will be guilty of an offence and liable, on summary conviction, to a fine not exceeding the statutory maximum.”.

### **Revocations**

**11.** The Regulations listed in schedule 8 are revoked.

St Andrew’s House,  
Edinburgh  
At 12.40 p.m. on 30th October 2020

*MICHAEL RUSSELL*  
A member of the Scottish Government

## SCHEDULE 1

Regulation 3(1)

### Level 0 Restrictions

## PART 1

### Closure of Premises

#### **Requirement to close certain premises in a Level 0 area to members of the public**

1.—(1) A person who is responsible for carrying on a listed business located in a Level 0 area must—

- (a) close to members of the public any premises operated as part of the business, and
  - (b) not carry on business at such premises otherwise than in accordance with this regulation.
- (2) In sub-paragraph (1), “listed business” means—
- (a) a nightclub, dance hall or discotheque,
  - (b) a sexual entertainment venue.
- (3) Sub-paragraph (1) does not prevent the use of—
- (a) premises, while those premises remain closed to members of the public, to—
    - (i) record a performance or sporting event,
    - (ii) broadcast a performance or sporting event to persons outside the premises, whether over the internet or as part of a radio or television broadcast, or
    - (iii) rehearse, train, practise or otherwise prepare for a performance or sporting event, or
  - (b) premises of a listed business in sub-paragraph (2)(a) for any purpose requested by the Scottish Ministers, a health board, a local authority or the Scottish Courts and Tribunals Service,
  - (c) any suitable premises to host blood donation sessions,
  - (d) any suitable premises that are used for the purposes of professional sport.
- (4) Sub-paragraph (1) does not prevent the use of premises, while those remain closed to members of the public, to take preparatory steps in pursuance of a requirement in paragraph 3.
- (5) If a listed business (“business A”) forms part of a larger business (“business B”), the person responsible for carrying on business B complies with the requirement in sub-paragraph (1)(a) if it closes down business A.
- (6) In sub-paragraph (2), “sexual entertainment venue” has the meaning given by section 45A of the Civic Government (Scotland) Act 1982(22).

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(22) 1982 c.45. Section 45A was inserted by the Air Weapons and Licensing (Scotland) Act 2015 (asp 10), section 76(3).

## PART 2

### Other restrictions on business

#### **Requirement for seated food and drink sale and consumption in food and drink businesses in a Level 0 area**

2.—(1) A person who is responsible for carrying on a food and drink business in a Level 0 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.

#### **Requirement to take measures to minimise risk of exposure to coronavirus in a Level 0 area**

3.—(1) A person who is responsible for a place of worship, carrying on a business or providing a service in a Level 0 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)),
  - (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)), 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<sup>(23)</sup>,
- (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<sup>(24)</sup>,

“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<sup>(25)</sup>.

(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, including workplace canteens,
- (d) bars, including bars in hotels or members’ clubs, and
- (e) public houses.

#### **Guidance on minimising exposure to coronavirus in a Level 0 area**

4.—(1) A person who is responsible for a place of worship, carrying on a business or providing a service in a Level 0 area must have regard to guidance issued by the Scottish Ministers about measures which should be taken in accordance with paragraph 3(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 sub-paragraph (1).

#### **Requirement to collect and share information in a Level 0 area: restaurants, cafes, bars, public houses, etc.**

5.—(1) A person who is responsible for a relevant hospitality premises in a Level 0 area must, in relation to the premises, take measures to—

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(23) 2016 asp 9.

(24) 1980 c.44. Section 135(1) has been amended but none of those amendments are relevant for this definition.

(25) Section 1(5)(a) was amended by the Education (Scotland) Act 1981 (c. 58), section 3(1)(a), by the Standards in Scotland’s Schools etc. Act 2000 (asp 6), schedule 3, and by the Children and Young People (Scotland) Act 2014 (asp 8), schedule 5, paragraph 2(2)(c).

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- (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 in a Level 0 area 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(26),
- “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.

## PART 3

### Restrictions on gatherings

#### **Restrictions on public gatherings indoors in a Level 0 area**

- 6.—(1) A person must not participate in a gathering in a public place indoors located in a Level 0 area, unless the gathering—
- (a) consists of no more than eight persons from no more than three households,
  - (b) is for the purpose of—
    - (i) work or providing voluntary or charitable services,
    - (ii) childcare, education or training,
    - (iii) attending a place of worship,
    - (iv) providing care or assistance to a vulnerable person,
    - (v) providing emergency or medical assistance,
    - (vi) avoiding injury, illness or escaping a risk of harm,
    - (vii) facilitating a house move,

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(26) 2020 c.7.

- (viii) facilitating shared parenting arrangements,
  - (ix) participating in legal proceedings or fulfilling a legal obligation,
  - (x) donating blood,
  - (xi) accessing public services, including—
    - (aa) social services,
    - (bb) services provided by the Department for Work and Pensions,
    - (cc) services provided to victims (such as victims of crime),
  - (xii) an organised activity,
  - (xiii) organised exercise,
  - (c) relates to a funeral, marriage ceremony or civil partnership registration, or
  - (d) is taking place in student accommodation where all the persons in the gathering—
    - (i) are using cooking, dining, toilet or washing facilities which are shared with any person who is not a member of their household, and
    - (ii) have the accommodation as their only or main residence.
- (2) For the purpose of sub-paragraph (1)(a), children under 12 years of age are not to be included when counting the number of persons participating in a gathering but are to be included when counting the number of households participating in a gathering.
- (3) For the purpose of sub-paragraph (1)(b)(xii) and (xiii), an activity or exercise is “organised” if—
- (a) it is organised by—
    - (i) a person who is responsible for carrying on a business or providing a service,
    - (ii) a person who is responsible for a place of worship,
    - (iii) a charity or other not for profit organisation,
    - (iv) a club or political organisation, or
    - (v) the governing body of a sport or other activity, and
  - (b) the organiser has taken such measures described in paragraph 3(1)(a) and (b) as are relevant to the particular activity or exercise, taking into account any relevant guidance issued by the Scottish Ministers.

### **Restriction on public gatherings outdoors in a Level 0 area**

- 7.—(1) A person must not participate in a gathering in a public place outdoors located in a Level 0 area, unless the gathering—
- (a) consists of no more than fifteen persons from no more than five households,
  - (b) consists of no more than 15 persons who are all under 18 years of age, where at least one person in the gathering has attained 12 years of age but has not attained 18 years of age,
  - (c) consists of persons who are all under 12 years of age,
  - (d) is for the purpose of—
    - (i) work or providing voluntary or charitable services,
    - (ii) childcare, education or training,
    - (iii) attending a place of worship,
    - (iv) providing care or assistance to a vulnerable person,
    - (v) providing emergency or medical assistance,

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

- (vi) avoiding injury, illness or escaping a risk of harm,
  - (vii) facilitating a house move,
  - (viii) facilitating shared parenting arrangements,
  - (ix) participating in legal proceedings or fulfilling a legal obligation,
  - (x) donating blood,
  - (xi) accessing public services, including—
    - (aa) social services,
    - (bb) services provided by the Department for Work and Pensions,
    - (cc) services provided to victims (such as victims of crime),
  - (xii) an organised activity which is not a public procession,
  - (xiii) organised exercise,
  - (e) relates to a funeral, marriage ceremony or civil partnership registration, or
  - (f) is taking place in student accommodation, where all the persons in the gathering—
    - (i) are using cooking, dining, toilet or washing facilities which are shared with any person who is not a member of their household, and
    - (ii) have the accommodation as their only or main residence.
- (2) For the purpose of sub-paragraph (1)(a), children under 12 years of age are not to be included when counting the number of persons or households participating in a gathering.
- (3) For the purpose of sub-paragraph (1)(d)(xii) and (xiii), an activity or exercise is “organised” if—
- (a) it is organised by—
    - (i) a person who is responsible for carrying on a business or providing a service,
    - (ii) a person who is responsible for a place of worship,
    - (iii) a charity or other not for profit organisation,
    - (iv) a club or political organisation, or
    - (v) the governing body of a sport or other activity, and
  - (b) the organiser has taken such measures described in paragraph 3(1)(a) and (b) as are relevant to the particular activity or exercise, taking into account any relevant guidance issued by the Scottish Ministers.

### **Restriction on gatherings in private dwellings in a Level 0 area**

**8.—(1)** A person must not attend a gathering in a private dwelling located in a Level 0 area, unless the gathering—

- (a) takes place indoors and consists of no more than eight persons from no more than three households,
- (b) takes place outdoors and—
  - (i) where at least one person in the gathering has attained 12 years of age but has not attained 18 years of age, consists of no more than eight persons who are all under 18 years of age, or
  - (ii) all the persons in the gathering are under 12 years of age,
- (c) is for the purpose of—
  - (i) work or providing voluntary or charitable services,

- (ii) childcare, education or training,
  - (iii) providing care or assistance to a vulnerable person,
  - (iv) providing emergency or medical assistance,
  - (v) avoiding injury, illness or escaping a risk of harm,
  - (vi) facilitating a house move,
  - (vii) facilitating shared parenting arrangements,
  - (viii) fulfilling a legal obligation,
- (d) relates to a funeral, marriage ceremony or civil partnership registration, or
- (e) is taking place in student accommodation, where all the persons in the gathering—
- (i) are using cooking, dining, toilet or washing facilities which are shared with any person who is not a member of their household, and
  - (ii) have the accommodation as their only or main residence.
- (2) For the purpose of sub-paragraph (1)(a), children under 12 years of age are not to be included when counting the number of people or households attending a gathering.

## SCHEDULE 2

Regulation 3(2)

### Level 1 Restrictions

## PART 1

### Closure of Premises

#### **Requirement to close certain premises in a Level 1 area to members of the public**

1.—(1) A person who is responsible for carrying on a listed business located in a Level 1 area must—

- (a) close to members of the public any premises operated as part of the business, and
  - (b) not carry on business at such premises otherwise than in accordance with this regulation.
- (2) In sub-paragraph (1), “listed business” means—
- (a) a nightclub, dance hall or discotheque,
  - (b) a sexual entertainment venue.
- (3) Sub-paragraph (1) does not prevent the use of—
- (a) premises, while those premises remain closed to members of the public, to—
    - (i) record a performance or sporting event,
    - (ii) broadcast a performance or sporting event to persons outside the premises, whether over the internet or as part of a radio or television broadcast, or
    - (iii) rehearse, train, practise or otherwise prepare for a performance or sporting event,
  - (b) premises of a listed business in sub-paragraph (2)(a) for any purpose requested by the Scottish Ministers, a health board, a local authority or the Scottish Courts and Tribunals Service,
  - (c) any suitable premises to host blood donation sessions,

(d) any suitable premises that are used for the purposes of professional sport.

(4) Sub-paragraph (1) does not prevent the use of premises, while those remain closed to members of the public, to take preparatory steps in pursuance of a requirement in paragraph 4.

(5) If a listed business (“business A”) forms part of a larger business (“business B”), the person responsible for carrying on business B complies with the requirement in sub-paragraph (1)(a) if it closes down business A.

(6) In sub-paragraph (2), “sexual entertainment venue” has the meaning given by section 45A of the Civic Government (Scotland) Act 1982<sup>(27)</sup>.

## PART 2

### Other restrictions on business

#### **Requirement for seated food and drink sale and consumption in food and drink businesses in a Level 1 area**

2.—(1) A person who is responsible for carrying on a food and drink business in a Level 1 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 the restriction on opening hours in paragraph 3.

#### **Restricted opening hours for food and drink businesses in a Level 1 area**

3.—(1) A person who is responsible for carrying on a food and drink business in a Level 1 area must—

- (a) between the hours of 2130 and 0600, cease to admit any additional customers to the premises,
- (b) between the hours of 2230 and 0600—
  - (i) 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,
  - (ii) cease selling food or drink for consumption on those premises,
  - (iii) 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,
- (b) by a hotel or other accommodation for consumption as part of room service,

<sup>(27)</sup> 1982 c.45. Section 45A was inserted by the Air Weapons and Licensing (Scotland) Act 2015 (asp 10), section 76(3).

- (c) in a cinema to its customers for consumption in any of its auditoriums,
  - (d) to customers attending a drive-in event for consumption at the event,
  - (e) for consumption in a cafe, dining hall or canteen at—
    - (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,
  - (f) for consumption in premises providing food or drink to homeless persons,
  - (g) for consumption in premises which are airside at an airport,
  - (h) for consumption in premises which are on a ferry.
- (3) Sub-paragraph (2)(c) to (h) 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)(c) to (h).
- (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.

#### **Requirement to take measures to minimise risk of exposure to coronavirus in a Level 1 area**

**4.—(1)** A person who is responsible for a place of worship, carrying on a business or providing a service in a Level 1 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)),
  - (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)), 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,

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

- (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(28),
- (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(29),

“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(30).

(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, including workplace canteens,
- (d) bars, including bars in hotels or members’ clubs, and
- (e) public houses.

### **Guidance on minimising exposure to coronavirus in a Level 1 area**

5.—(1) A person who is responsible for a place of worship, carrying on a business or providing a service in a Level 1 area must have regard to guidance issued by the Scottish Ministers about measures which should be taken in accordance with paragraph 4(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,

(28) 2016 asp 9.

(29) 1980 c.44. Section 135(1) has been amended but none of those amendments are relevant for this definition.

(30) Section 1(5)(a) was amended by the Education (Scotland) Act 1981 (c. 58), section 3(1)(a), by the Standards in Scotland’s Schools etc. Act 2000 (asp 6), schedule 3, and by the Children and Young People (Scotland) Act 2014 (asp 8), schedule 5, paragraph 2(2)(c).

- (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 sub-paragraph (1).

**Requirement to collect and share information in a Level 1 area: restaurants, cafes, bars, public houses, etc.**

6.—(1) A person who is responsible for a relevant hospitality premises in a Level 1 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 in a Level 1 area 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<sup>(31)</sup>,

“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.

## PART 3

### Restrictions on gatherings

#### **Restriction on public gatherings indoors in a Level 1 area**

7.—(1) A person must not participate in a gathering in a public place indoors located in a Level 1 area, unless the gathering—

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(31) 2020 c.7.

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

- (a) consists of no more than six persons from no more than two households,
  - (b) is for the purpose of—
    - (i) work or providing voluntary or charitable services,
    - (ii) childcare, education or training,
    - (iii) attending a place of worship,
    - (iv) providing care or assistance to a vulnerable person,
    - (v) providing emergency or medical assistance,
    - (vi) avoiding injury, illness or escaping a risk of harm,
    - (vii) facilitating a house move,
    - (viii) facilitating shared parenting arrangements,
    - (ix) participating in legal proceedings or fulfilling a legal obligation,
    - (x) donating blood,
    - (xi) accessing public services, including—
      - (aa) social services,
      - (bb) services provided by the Department for Work and Pensions,
      - (cc) services provided to victims (such as victims of crime),
    - (xii) an organised activity,
    - (xiii) organised exercise which—
      - (aa) is not a contact sport, or
      - (bb) is for persons under 18 years of age,
  - (c) relates to a funeral, marriage ceremony or civil partnership registration, or
  - (d) is taking place in student accommodation, where all the persons in the gathering—
    - (i) are using cooking, dining, toilet or washing facilities which are shared with any person who is not a member of their household, and
    - (ii) have the accommodation as their only or main residence.
- (2) For the purpose of sub-paragraph (1)(a), children under 12 years of age are not to be included when counting the number of persons participating in a gathering but are to be included when counting the number of households participating in a gathering.
- (3) For the purpose of sub-paragraph (1)(b)(xii) and (xiii), an activity or exercise is “organised” if—
- (a) it is organised by—
    - (i) a person who is responsible for carrying on a business or providing a service,
    - (ii) a person who is responsible for a place of worship,
    - (iii) a charity or other not for profit organisation,
    - (iv) a club or political organisation, or
    - (v) the governing body of a sport or other activity, and
  - (b) the organiser has taken such measures described in paragraph 4(1)(a) and (b) as are relevant to the particular activity or exercise, taking into account any relevant guidance issued by the Scottish Ministers.

### **Restriction on public gatherings outdoors in a Level 1 area**

**8.—(1)** A person must not participate in a gathering in a public place outdoors located in a Level 1 area, unless the gathering—

- (a) consists, in the period to 18 November 2020, of no more than six persons from no more than two households, and from 19 November 2020, of no more than eight persons from no more than three households,
- (b) consists, in the period to 18 November 2020, of no more than six persons who are all under 18 years of age, and from 19 November 2020, of no more than eight such persons, where at least one person in the gathering has attained 12 years of age but has not attained 18 years of age,
- (c) consists of persons who are all under 12 years of age,
- (d) is for the purpose of—
  - (i) work or providing voluntary or charitable services,
  - (ii) childcare, education or training,
  - (iii) attending a place of worship,
  - (iv) providing care or assistance to a vulnerable person,
  - (v) providing emergency or medical assistance,
  - (vi) avoiding injury, illness or escaping a risk of harm,
  - (vii) facilitating a house move,
  - (viii) facilitating shared parenting arrangements,
  - (ix) participating in legal proceedings or fulfilling a legal obligation,
  - (x) donating blood,
  - (xi) accessing public services, including—
    - (aa) social services,
    - (bb) services provided by the Department for Work and Pensions,
    - (cc) services provided to victims (such as victims of crime),
  - (xii) an organised activity which is not a public procession,
  - (xiii) organised exercise,
- (e) relates to a funeral, marriage ceremony or civil partnership registration, or
- (f) is taking place in student accommodation, where all the persons in the gathering—
  - (i) are using cooking, dining, toilet or washing facilities which are shared with any person who is not a member of their household, and
  - (ii) have the accommodation as their only or main residence.

(2) For the purpose of sub-paragraph (1)(a), children under 12 years of age are not to be included when counting the number of persons or households participating in a gathering.

(3) For the purpose of sub-paragraph (1)(d)(xii) and (xiii), an activity or exercise is “organised” if—

- (a) it is organised by—
  - (i) a person who is responsible for carrying on a business or providing a service,
  - (ii) a person who is responsible for a place of worship,
  - (iii) a charity or other not for profit organisation,
  - (iv) a club or political organisation, or

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- (v) the governing body of a sport or other activity, and
- (b) the organiser has taken such measures described in paragraph 4(1)(a) and (b) as are relevant to the particular activity or exercise, taking into account any relevant guidance issued by the Scottish Ministers.

**Restriction on gatherings in private dwellings in a Level 1 area**

9.—(1) A person must not attend a gathering in a private dwelling located in a Level 1 area, unless the gathering—

- (a) takes place outdoors and consists of no more than six persons from no more than two households,
- (b) takes place outdoors and—
  - (i) where at least one person in the gathering has attained 12 years of age but has not attained 18 years of age, consists of no more than six persons who are all under 18 years of age, or
  - (ii) all the persons in the gathering are under 12 years of age,
- (c) is for the purpose of—
  - (i) work or providing voluntary or charitable services,
  - (ii) childcare, education or training,
  - (iii) providing care or assistance to a vulnerable person,
  - (iv) providing emergency or medical assistance,
  - (v) avoiding injury, illness or escaping a risk of harm,
  - (vi) facilitating a house move,
  - (vii) facilitating shared parenting arrangements,
  - (viii) fulfilling a legal obligation,
- (d) relates to a funeral, marriage ceremony or civil partnership registration, or
- (e) is taking place in student accommodation, where all the persons in the gathering—
  - (i) are using cooking, dining, toilet or washing facilities which are shared with any person who is not a member of their household, and
  - (ii) have the accommodation as their only or main residence.

(2) For the purpose of sub-paragraph (1)(a), children under 12 years of age are not to be included when counting the number of people or households attending a gathering.

## SCHEDULE 3

Regulation 3(3)

### Level 2 Restrictions

## PART 1

### Closure of Premises

#### **Requirement to close certain premises in a Level 2 area to members of the public**

1.—(1) A person who is responsible for carrying on a listed business located in a Level 2 area must—

- (a) close to members of the public any premises operated as part of the business, and
- (b) not carry on business at such premises otherwise than in accordance with this regulation.

(2) In sub-paragraph (1), “listed business” means—

- (a) a nightclub, dance hall or discotheque,
- (b) a concert hall,
- (c) any other venue which—
  - (i) normally opens at night,
  - (ii) has a dance floor or other space for dancing or spectating by members of the public (and for these purposes, members of staff of the venue in question are to be considered members of the public), and
  - (iii) provides music, whether live or recorded,
- (d) a sexual entertainment venue,
- (e) an indoor or outdoor theatre,
- (f) a comedy club,
- (g) a soft play centre,
- (h) a sports stadium,
- (i) a conference or exhibition centre,
- (j) a snooker or pool hall,
- (k) a bowling alley,
- (l) a casino,
- (m) a funfair or amusement arcade.

(3) Sub-paragraph (1) does not prevent the use of—

- (a) premises, while those premises remain closed to members of the public, to—
  - (i) record a performance or sporting event,
  - (ii) broadcast a performance or sporting event to persons outside the premises, whether over the internet or as part of a radio or television broadcast, or
  - (iii) rehearse, train, practise or otherwise prepare for a performance or sporting event,
- (b) premises of a listed business in sub-paragraph (2)(b), (e), or (h) for education or training purposes,
- (c) premises of a listed business in sub-paragraph (2)(h) for providing voluntary or charitable services,

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- (d) premises of a listed business in sub-paragraph (2)(a), (b), (c), (e), (f), (h) or (i) for any purpose requested by the Scottish Ministers, a health board, a local authority or the Scottish Courts and Tribunals Service,
  - (e) any suitable premises to host blood donation sessions,
  - (f) any suitable premises that are used for the purposes of professional sport.
- (4) Sub-paragraph (1) does not prevent the use of premises, while those remain closed to members of the public, to take preparatory steps in pursuance of a requirement in paragraph 8.
- (5) Sub-paragraph (1) does not prevent the use of premises for a drive-in event.
- (6) If a listed business (“business A”) forms part of a larger business (“business B”) the person responsible for carrying on business B complies with the requirement in sub-paragraph (1)(a) if it closes down business A.
- (7) In sub-paragraph (2), “sexual entertainment venue” has the meaning given by section 45A of the Civic Government (Scotland) Act 1982(32).

#### **Requirement to cease mobile close contact services in a Level 2 area**

- 2.—(1) A person who provides a close contact service must not provide that service in a Level 2 area as a mobile close contact service.
- (2) For the purposes of this paragraph—
- (a) a “close contact service” means:
    - (i) beauty and nail services (including make-up services),
    - (ii) hair removal services,
    - (iii) tattoo, piercing and body modification services,
    - (iv) fashion design, dress-fitting and tailoring services,
    - (v) indoor portrait photography and art services,
    - (vi) massage therapies,
    - (vii) complementary and alternative medicine services requiring physical contact or close physical proximity between persons, but not osteopathy and chiropractic services,
    - (viii) spa and wellness services,
    - (ix) other services or procedures which require physical contact or close physical proximity between a provider and a customer and are not ancillary to medical, health, or social care services.
  - (b) a “mobile close contact service” means a close contact service which is provided at a location other than—
    - (i) fixed business premises which have as one of their uses the provision of the service,
    - (ii) a room which is used exclusively for the provision of the service and is situated within a private dwelling, hospice, or other care setting.

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(32) 1982 c.45. Section 45A was inserted by the Air Weapons and Licensing (Scotland) Act 2015 (asp 10), section 76(3).

## PART 2

### Other restrictions on business

#### **Requirement for seated food and drink sale and consumption in food and drink businesses in a Level 2 area**

3.—(1) A person who is responsible for carrying on a food and drink business in a Level 2 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 the closure of drinks-only public house businesses in paragraph 4, the restriction on opening hours in paragraph 5 and the restrictions on sale and consumption of alcohol in paragraph 6.

#### **Closure of drinks-only public house businesses in a Level 2 area**

4.—(1) A person who is responsible for carrying on a drinks-only public house business in a Level 2 area must—

- (a) close to members of the public any premises operated as part of the business, and
- (b) not carry on business at such premises otherwise than in accordance with this paragraph.

(2) Sub-paragraph (1) does not prevent food or drink being sold for consumption off the premises.

(3) For the purposes of this paragraph, a “drinks-only public house business” means any public house which does not have available on its premises facilities to allow the preparation and service of a meal 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.

(4) For the purposes of sub-paragraph (1), an area adjacent to the premises of the drinks-only public house 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.

(5) If a drinks-only public house 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.

#### **Restricted opening hours for food and drink businesses in a Level 2 area**

5.—(1) Subject to paragraph 7, a person who is responsible for carrying on a food and drink business in a Level 2 area (other than one to which paragraph 4 applies) must, in relation to any premises, or parts of the premises, which are indoors—

- (a) between the hours of 1900 and 0600, cease to admit any additional customers to the premises,

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- (b) between the hours of 2000 and 0600—
  - (i) 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,
  - (ii) cease selling food or drink for consumption on those premises,
  - (iii) not permit consumption of food or drink on those premises by members of the public.
- (2) Subject to paragraph 7, a person who is responsible for carrying on a food and drink business in a Level 2 area (other than one to which paragraph 4 applies) must, in relation to any premises, or parts of the premises, which are outdoors—
  - (a) between the hours of 2130 and 0600, cease to admit any additional customers to the premises,
  - (b) between the hours of 2230 and 0600—
    - (i) 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,
    - (ii) cease selling food or drink for consumption on those premises,
    - (iii) not permit consumption of food or drink on those premises by members of the public.
- (3) Sub-paragraphs (1) and (2) do not prevent food or drink being sold—
  - (a) for consumption off the premises,
  - (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) in a cinema to its customers for consumption in any of its auditoriums,
  - (e) to customers attending a drive-in event for consumption at the event,
  - (f) for consumption in a cafe, dining hall or canteen at—
    - (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,
  - (g) for consumption in premises providing food or drink to homeless persons,
  - (h) for consumption in premises which are airside at an airport,
  - (i) for consumption in premises which are on a ferry.
- (4) Sub-paragraph (3)(c) does not apply in relation to the sale of alcohol by a hotel or other accommodation to its residents between 2000 and 0600.
- (5) Sub-paragraph (3)(d) to (i) does not apply in relation to the sale of alcohol.
- (6) 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 (3)(d) to (i).

(7) 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.

(8) 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) or (2) if that person complies with the requirements in relation to business A.

### **Restrictions on sale and consumption of alcohol in food and drink businesses in a Level 2 area**

6.—(1) Subject to paragraph 7, a person who is responsible for carrying on a food and drink business in a Level 2 area (other than one to which paragraph 4 applies) must—

- (a) cease selling or supplying alcohol for consumption on any part of its premises indoors, and
- (b) not permit consumption of alcohol on any part of its premises indoors.

(2) Sub-paragraph (1) does not apply if alcohol is served for consumption on the premises indoors ancillary to the taking of a table meal, and the meal—

- (a) has been prepared on the premises, and
- (b) is such as might be expected to be served as the main midday or main evening meal (irrespective of the actual time of service), or as a main course at either such meal.

(3) For the purposes of this paragraph, a table meal means 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.

(4) Sub-paragraph (1) does not apply if—

- (a) the sale of alcohol is by a hotel or other accommodation as part of room service, or
- (b) consumption of alcohol is by a resident of a hotel in their private room.

### **Special opening hours for certain services**

7.—(1) Where sub-paragraph (3) applies, the requirements in paragraph 5 (restricted opening hours for food and drink businesses in a Level 2 area) apply with the following modifications:—

- (a) sub-paragraph (1)(a) is omitted,
- (b) in sub-paragraph (1)(b), for “2000” substitute “2200”,
- (c) sub-paragraph (2)(a) is omitted,
- (d) sub-paragraphs (3) and (4) are omitted.

(2) Where sub-paragraph (3) applies, the requirements in paragraph 6 (restrictions on sale and consumption of alcohol in food and drink businesses in a Level 2 area) do not apply.

(3) This sub-paragraph applies where a food and drink business located in a Level 2 area is providing services in connection with—

- (a) a marriage ceremony or civil partnership registration, or
- (b) a funeral.

### **Requirement to take measures to minimise risk of exposure to coronavirus in a Level 2 area**

8.—(1) A person who is responsible for a place of worship, carrying on a business or providing a service in a Level 2 area must take—

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

- (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)),
    - (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)), 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<sup>(33)</sup>,
  - (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<sup>(34)</sup>,
- “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<sup>(35)</sup>.
- (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,

<sup>(33)</sup> 2016 asp 9.

<sup>(34)</sup> 1980 c.44.

<sup>(35)</sup> Section 1(5)(a) was amended by the Education (Scotland) Act 1981 (c.58), section 3(1)(a), by the Standards in Scotland’s Schools etc. Act 2000 (asp 6), schedule 3, and by the Children and Young People (Scotland) Act 2014 (asp 8), schedule 5, paragraph 2(2)(c).

- (c) cafes, including workplace canteens,
- (d) bars, including bars in hotels or members' clubs, and
- (e) public houses.

### **Guidance on minimising exposure to coronavirus in a Level 2 area**

**9.**—(1) A person who is responsible for a place of worship, carrying on a business or providing a service in a Level 2 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 sub-paragraph (1).

### **Requirement to collect and share information in a Level 2 area: restaurants, cafes, bars, public houses, etc.**

**10.**—(1) A person who is responsible for a relevant hospitality premises in a Level 2 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(36),

“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,

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(36) 2020 c.7.

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- (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.

## PART 3

### Restrictions on gatherings

#### **Restriction on public gatherings indoors in a Level 2 area**

**11.—(1)** A person must not participate in a gathering in a public place indoors located in a Level 2 area, unless the gathering—

- (a) consists of no more than six persons from no more than two households,
- (b) is for the purpose of—
  - (i) work or providing voluntary or charitable services,
  - (ii) childcare, education or training,
  - (iii) attending a place of worship,
  - (iv) providing care or assistance to a vulnerable person,
  - (v) providing emergency or medical assistance,
  - (vi) avoiding injury, illness or escaping a risk of harm,
  - (vii) facilitating a house move,
  - (viii) facilitating shared parenting arrangements,
  - (ix) participating in legal proceedings or fulfilling a legal obligation,
  - (x) donating blood,
  - (xi) accessing public services, including—
    - (aa) social services,
    - (bb) services provided by the Department for Work and Pensions,
    - (cc) services provided to victims (such as victims of crime),
  - (xii) an organised activity which is for persons under 18 years of age,
  - (xiii) organised exercise which—
    - (aa) is not a contact sport, or
    - (bb) is for persons under 18 years of age,
- (c) relates to a funeral, marriage ceremony or civil partnership registration, or
- (d) is taking place in student accommodation, where all the persons in the gathering—
  - (i) are using cooking, dining, toilet or washing facilities which are shared with any person who is not a member of their household, and
  - (ii) have the accommodation as their only or main residence.

(2) For the purpose of sub-paragraph (1)(a), children under 12 years of age are not to be included when counting the number of persons participating in a gathering but are to be included when counting the number of households participating in a gathering.

(3) For the purpose of sub-paragraph (1)(b)(xii) and (xiii), an activity or exercise is “organised” if—

- (a) it is organised by—

- (i) a person who is responsible for carrying on a business or providing a service,
  - (ii) a person who is responsible for a place of worship,
  - (iii) a charity or other not for profit organisation,
  - (iv) a club or political organisation, or
  - (v) the governing body of a sport or other activity, and
- (b) the organiser has taken such measures described in paragraph 8(1)(a) and (b) as are relevant to the particular activity or exercise, taking into account any relevant guidance issued by the Scottish Ministers.

### **Restriction on public gatherings outdoors in a Level 2 area**

**12.—(1)** A person must not participate in a gathering in a public place outdoors located in a Level 2 area, unless the gathering—

- (a) consists of no more than six persons from no more than two households,
- (b) consists of no more than six persons who are all under 18 years of age, where at least one person in the gathering has attained 12 years of age but has not attained 18 years of age,
- (c) consists of persons who are all under 12 years of age,
- (d) is for the purpose of—
  - (i) work or providing voluntary or charitable services,
  - (ii) childcare, education or training,
  - (iii) attending a place of worship,
  - (iv) providing care or assistance to a vulnerable person,
  - (v) providing emergency or medical assistance,
  - (vi) avoiding injury, illness or escaping a risk of harm,
  - (vii) facilitating a house move,
  - (viii) facilitating shared parenting arrangements,
  - (ix) participating in legal proceedings or fulfilling a legal obligation,
  - (x) donating blood,
  - (xi) accessing public services, including—
    - (aa) social services,
    - (bb) services provided by the Department for Work and Pensions,
    - (cc) services provided to victims (such as victims of crime),
  - (xii) an organised activity which is not a public procession,
  - (xiii) organised exercise,
- (e) relates to a funeral, marriage ceremony or civil partnership registration, or
- (f) is taking place in student accommodation, where all the persons in the gathering—
  - (i) are using cooking, dining, toilet or washing facilities which are shared with any person who is not a member of their household, and
  - (ii) have the accommodation as their only or main residence.

(2) For the purpose of sub-paragraph (1)(a), children under 12 years of age are not to be included when counting the number of persons or households participating in a gathering.

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

(3) For the purpose of sub-paragraph (1)(d)(xii) and (xiii), an activity or exercise is “organised” if—

- (a) it is organised by—
  - (i) a person who is responsible for carrying on a business or providing a service,
  - (ii) a person who is responsible for a place of worship,
  - (iii) a charity or other not for profit organisation,
  - (iv) a club or political organisation, or
  - (v) the governing body of a sport or other activity, and
- (b) the organiser has taken such measures described in paragraph 8(1)(a) and (b) as are relevant to the particular activity or exercise, taking into account any relevant guidance issued by the Scottish Ministers.

### **Restriction on gatherings in private dwellings in a Level 2 area**

**13.—**(1) A person must not attend a gathering in a private dwelling located in a Level 2 area, unless the gathering—

- (a) takes place outdoors and consists of no more than six persons from no more than two households,
- (b) takes place outdoors and—
  - (i) where at least one person in the gathering has attained 12 years of age but has not attained 18 years of age, consists of no more than six persons who are all under 18 years of age, or
  - (ii) all the persons in the gathering are under 12 years of age,
- (c) is for the purpose of—
  - (i) work or providing voluntary or charitable services,
  - (ii) childcare, education or training,
  - (iii) providing care or assistance to a vulnerable person,
  - (iv) providing emergency or medical assistance,
  - (v) avoiding injury, illness or escaping a risk of harm,
  - (vi) facilitating a house move,
  - (vii) facilitating shared parenting arrangements,
  - (viii) fulfilling a legal obligation,
- (d) is a funeral, marriage ceremony or civil partnership registration, or
- (e) is taking place in student accommodation, where all the persons in the gathering—
  - (i) are using cooking, dining, toilet or washing facilities which are shared with any person who is not a member of their household, and
  - (ii) have the accommodation as their only or main residence.

(2) For the purpose of sub-paragraph (1)(a), children under 12 years of age are not to be included when counting the number of people or households attending a gathering.

## SCHEDULE 4

Regulation 3(4)

### Level 3 Restrictions

## PART 1

### Closure of Premises

#### **Requirement to close certain premises in a Level 3 area to members of the public**

1.—(1) A person who is responsible for carrying on a listed business located in a Level 3 area must—

- (a) close to members of the public any premises operated as part of the business, and
- (b) not carry on business at such premises otherwise than in accordance with this regulation.

(2) In sub-paragraph (1), “listed business” means—

- (a) a cinema,
- (b) a nightclub, dance hall or discotheque,
- (c) a concert hall,
- (d) any other venue which—
  - (i) normally opens at night,
  - (ii) has a dance floor or other space for dancing or spectating by members of the public (and for these purposes, members of staff of the venue in question are to be considered members of the public), and
  - (iii) provides music, whether live or recorded,
- (e) a sexual entertainment venue,
- (f) an indoor or outdoor theatre,
- (g) a comedy club,
- (h) a soft play centre,
- (i) a sports stadium,
- (j) a conference or exhibition centre,
- (k) a snooker or pool hall,
- (l) a bowling alley,
- (m) a casino,
- (n) a bingo hall,
- (o) a funfair,
- (p) an amusement arcade,

(3) Sub-paragraph (1) does not prevent the use of—

- (a) premises, while those premises remain closed to members of the public, to—
  - (i) record a performance or sporting event,
  - (ii) broadcast a performance or sporting event to persons outside the premises, whether over the internet or as part of a radio or television broadcast, or
  - (iii) rehearse, train, practise or otherwise prepare for a performance or sporting event,

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- (b) premises of a listed business in sub-paragraph (2)(c), (f), or (i) for education or training purposes,
- (c) premises of a listed business in sub-paragraph (2)(i) for providing voluntary or charitable services,
- (d) premises of a listed business in sub-paragraph (2)(a), (b), (c), (d), (f), (g), (i), or (j) for any purpose requested by the Scottish Ministers, a health board, a local authority or the Scottish Courts and Tribunals Service,
- (e) any suitable premises to host blood donation sessions,
- (f) any suitable premises that are used for the purposes of professional sport.

(4) Sub-paragraph (1) does not prevent the use of premises, while those remain closed to members of the public, to take preparatory steps in pursuance of a requirement in paragraph 7.

(5) If a listed business (“business A”) forms part of a larger business (“business B”) the person responsible for carrying on business B complies with the requirement in sub-paragraph (1)(a) if it closes down business A.

(6) In sub-paragraph (2), “sexual entertainment venue” has the meaning given by section 45A of the Civic Government (Scotland) Act 1982(37).

### **Requirement to cease mobile close contact services in a Level 3 area**

2.—(1) A person who provides a close contact service must not provide that service in a Level 3 area as a mobile close contact service.

(2) For the purposes of this paragraph—

(a) a “close contact service” means:

- (i) beauty and nail services (including make-up services),
- (ii) hair removal services,
- (iii) tattoo, piercing and body modification services,
- (iv) fashion design, dress-fitting and tailoring services,
- (v) indoor portrait photography and art services,
- (vi) massage therapies,
- (vii) complementary and alternative medicine services requiring physical contact or close physical proximity between persons, but not osteopathy and chiropractic services,
- (viii) spa and wellness services,
- (ix) other services or procedures which require physical contact or close physical proximity between a provider and a customer and are not ancillary to medical, health, or social care services.

(b) a “mobile close contact service” means a close contact service which is provided at a location other than—

- (i) fixed business premises which have as one of their uses the provision of the service,
- (ii) a room which is used exclusively for the provision of the service and is situated within a private dwelling, hospice, or other care setting.

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(37) 1982 c.45. Section 45A was inserted by the Air Weapons and Licensing (Scotland) Act 2015 (asp 10), section 76(3).

## PART 2

### Other restrictions on business

#### **Requirement for seated food and drink sale and consumption in food and drink businesses in a Level 3 area**

3.—(1) A person who is responsible for carrying on a food and drink business in a Level 3 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 the restrictions in paragraphs 4 and 5.

#### **Closure of drinks-only public house businesses in a Level 3 area**

4.—(1) A person who is responsible for carrying on a drinks-only public house business in a Level 3 area must—

- (a) close to members of the public any premises operated as part of the business, and
- (b) not carry on business at such premises otherwise than in accordance with this paragraph.

(2) Sub-paragraph (1) does not prevent food or drink being sold for consumption off the premises.

(3) For the purposes of this paragraph, a “drinks-only public house business” means any public house which does not have available on its premises facilities to allow the preparation and service of a meal 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.

(4) For the purposes of sub-paragraph (1), an area adjacent to the premises of the drinks-only public house 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.

(5) If a drinks-only public house 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.

#### **Restrictions on food and drink businesses in a Level 3 area**

5.—(1) Subject to paragraph 6, a person who is responsible for carrying on a food and drink business in a Level 3 area (other than one to which paragraph 4 applies) must—

- (a) cease selling or supplying alcohol for consumption on any part of its premises,
- (b) not permit consumption of alcohol on any part of its premises,
- (c) between the hours of 1700 and 0600, cease to admit any additional customers to the premises,

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

- (d) between the hours of 1800 and 0600—
  - (i) 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,
  - (ii) cease selling food or drink for consumption on those premises,
  - (iii) 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,
  - (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—
    - (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) premises which are on a ferry.
- (3) Sub-paragraph (2)(c) does not apply in relation to the sale of alcohol by a hotel or other accommodation to its residents between 1800 and 0600.
- (4) Sub-paragraph (2)(d) to (g) does not apply in relation to the sale of alcohol.
- (5) 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).
- (6) 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.
- (7) 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.

### **Exceptions to food and drink business restrictions for certain services**

- 6.—(1) Where sub-paragraph (2) applies, the requirements in paragraph 5 (restrictions on food and drink businesses in a Level 3 area) apply with the following modifications—
- (a) sub-paragraph (1)(a) to (c) is omitted,
  - (b) in sub-paragraph (1)(d), for “1800” substitute “2200”,

(c) sub-paragraphs (2) and (3) are omitted.

(2) This sub-paragraph applies where a food and drink business located in a Level 3 area is providing services in connection with—

- (a) a marriage ceremony or civil partnership registration, or
- (b) a funeral.

### **Requirement to take measures to minimise risk of exposure to coronavirus in a Level 3 area**

7.—(1) A person who is responsible for a place of worship, carrying on a business or providing a service in a Level 3 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)),
  - (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)), 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<sup>(38)</sup>,
- (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<sup>(39)</sup>,

“required distance” means—

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<sup>(38)</sup> 2016 asp 9.

<sup>(39)</sup> 1980 c.44.

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

- (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<sup>(40)</sup>.

(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, including workplace canteens,
- (d) bars, including bars in hotels or members’ clubs, and
- (e) public houses.

### **Guidance on minimising exposure to coronavirus**

8.—(1) A person who is responsible for a place of worship, carrying on a business or providing a service in a Level 3 area must have regard to guidance issued by the Scottish Ministers about measures which should be taken in accordance with paragraph 7(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 sub-paragraph (1).

### **Requirement to collect and share information: restaurants, cafes, bars, public houses, etc.**

9.—(1) A person who is responsible for a relevant hospitality premises in a Level 3 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,

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<sup>(40)</sup> 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).

- (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(41),
  - “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.

## PART 3

### Restrictions on gatherings

#### **Restriction on public gatherings indoors in protected Level 3 area**

- 10.**—(1) A person must not participate in a gathering in a public place indoors located in a Level 3 area, unless the gathering—
- (a) consists of no more than six persons from no more than two households,
  - (b) is for the purpose of—
    - (i) work or providing voluntary or charitable services,
    - (ii) childcare, education or training,
    - (iii) attending a place of worship,
    - (iv) providing care or assistance to a vulnerable person,
    - (v) providing emergency or medical assistance,
    - (vi) avoiding injury, illness or escaping a risk of harm,
    - (vii) facilitating a house move,
    - (viii) facilitating shared parenting arrangements,
    - (ix) participating in legal proceedings or fulfilling a legal obligation,
    - (x) donating blood,
    - (xi) accessing public services, including—
      - (aa) social services,
      - (bb) services provided by the Department for Work and Pensions,
      - (cc) services provided to victims (such as victims of crime),
    - (xii) an organised activity which is for persons under 18 year of age,
    - (xiii) organised exercise which is for persons under 18 years of age,
  - (c) relates to a funeral, marriage ceremony or civil partnership registration, or

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(41) 2020 c.7.

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

- (d) is taking place in student accommodation, where all the persons in the gathering—
  - (i) are using cooking, dining, toilet or washing facilities which are shared with any person who is not a member of their household, and
  - (ii) have the accommodation as their only or main residence.
- (2) For the purpose of sub-paragraph (1)(a), children under 12 years of age are not to be included when counting the number of persons participating in a gathering but are to be included when counting the number of households participating in a gathering.
- (3) For the purpose of sub-paragraph (1)(b)(xii) and (xiii), an activity or exercise is “organised” if—
  - (a) it is organised by—
    - (i) a person who is responsible for carrying on a business or providing a service,
    - (ii) a person who is responsible for a place of worship,
    - (iii) a charity or other not for profit organisation,
    - (iv) a club or political organisation, or
    - (v) the governing body of a sport or other activity, and
  - (b) the organiser has taken such measures described in paragraph 7(1)(a) and (b) as are relevant to the particular activity or exercise, taking into account any relevant guidance issued by the Scottish Ministers.

### **Restriction on public gatherings outdoors in a Level 3 area**

- 11.—**(1) A person must not participate in a gathering in a public place outdoors located in a Level 3 area, unless the gathering—
- (a) consists of no more than six persons from no more than two households,
  - (b) consists of no more than six persons who are all under 18 years of age, where at least one person in the gathering has attained 12 years of age but has not attained 18 years of age,
  - (c) consists of persons who are all under 12 years of age,
  - (d) is for the purpose of—
    - (i) work or providing voluntary or charitable services,
    - (ii) childcare, education or training,
    - (iii) attending a place of worship,
    - (iv) providing care or assistance to a vulnerable person,
    - (v) providing emergency or medical assistance,
    - (vi) avoiding injury, illness or escaping a risk of harm,
    - (vii) facilitating a house move,
    - (viii) facilitating shared parenting arrangements,
    - (ix) participating in legal proceedings or fulfilling a legal obligation,
    - (x) donating blood,
    - (xi) accessing public services, including—
      - (aa) social services,
      - (bb) services provided by the Department for Work and Pensions,
      - (cc) services provided to victims (such as victims of crime),
    - (xii) an organised activity which is not a public procession,

- (xiii) organised exercise which—
  - (aa) is not a contact sport, or
  - (bb) is for persons under 18 years of age,
- (e) relates to a funeral, marriage ceremony or civil partnership registration, or
- (f) is taking place in student accommodation, where all the persons in the gathering—
  - (i) are using cooking, dining, toilet or washing facilities which are shared with any person who is not a member of their household, and
  - (ii) have the accommodation as their only or main residence.
- (2) For the purpose of sub-paragraph (1)(a), children under 12 years of age are not to be included when counting the number of persons or households participating in a gathering.
- (3) For the purpose of sub-paragraph (1)(d)(xii) and (xiii), an activity or exercise is “organised” if—
  - (a) it is organised by—
    - (i) a person who is responsible for carrying on a business or providing a service,
    - (ii) a person who is responsible for a place of worship,
    - (iii) a charity or other not for profit organisation,
    - (iv) a club or political organisation, or
    - (v) the governing body of a sport or other activity, and
  - (b) the organiser has taken such measures described in paragraph 7(1)(a) and (b) as are relevant to the particular activity or exercise, taking into account any relevant guidance issued by the Scottish Ministers.

### **Restriction on gatherings in private dwellings in a Level 3 area**

- 12.—(1)** A person must not attend a gathering in a private dwelling located in a Level 3 area, unless the gathering—
- (a) takes place outdoors and consists of no more than six persons from no more than two households,
  - (b) takes place outdoors and—
    - (i) where at least one person in the gathering has attained 12 years of age but has not attained 18 years of age, consists of no more than six persons who are all under 18 years of age, or
    - (ii) all the persons in the gathering are under 12 years of age,
  - (c) is for the purpose of—
    - (i) work or providing voluntary or charitable services,
    - (ii) childcare, education or training,
    - (iii) providing care or assistance to a vulnerable person,
    - (iv) providing emergency or medical assistance,
    - (v) avoiding injury, illness or escaping a risk of harm,
    - (vi) facilitating a house move,
    - (vii) facilitating shared parenting arrangements,
    - (viii) fulfilling a legal obligation,
  - (d) is a funeral, marriage ceremony or civil partnership registration, or

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- (e) is taking place in student accommodation, where all the persons in the gathering—
  - (i) are using cooking, dining, toilet or washing facilities which are shared with any person who is not a member of their household, and
  - (ii) have the accommodation as their only or main residence.
- (2) For the purpose of sub-paragraph (1)(a), children under 12 years of age are not to be included when counting the number of people or households attending a gathering.

## SCHEDULE 5

Regulation 3(5)

### Level 4 Restrictions

## PART 1

### Closure of Premises

#### **Requirement to close certain premises in a Level 4 area to members of the public**

1.—(1) A person who is responsible for carrying on a listed business located in a Level 4 area must—

- (a) close to members of the public any premises operated as part of the business, and
- (b) not carry on business at such premises otherwise than in accordance with this regulation.

(2) In sub-paragraph (1), “listed business” means—

- (a) a cinema,
- (b) a nightclub, dance hall or discotheque,
- (c) a concert hall,
- (d) any other venue which—
  - (i) normally opens at night,
  - (ii) has a dance floor or other space for dancing or spectating by members of the public (and for these purposes, members of staff of the venue in question are to be considered members of the public) and
  - (iii) provides music, whether live or recorded,
- (e) a sexual entertainment venue,
- (f) an indoor or outdoor theatre,
- (g) a comedy club,
- (h) a museum or gallery,
- (i) a soft play centre,
- (j) a sports stadium,
- (k) a conference or exhibition centre,
- (l) a snooker or pool hall,
- (m) a bowling alley,
- (n) a casino,
- (o) a betting shop,

- (p) a bingo hall,
  - (q) a funfair,
  - (r) an amusement arcade,
  - (s) premises which provide a close contact service,
  - (t) a skating rink,
  - (u) an indoor fitness studio, gym, swimming pool or other indoor leisure centre or facility.
- (3) Sub-paragraph (1) does not prevent the use of—
- (a) premises, while those premises remain closed to members of the public, to—
    - (i) record a performance or sporting event,
    - (ii) broadcast a performance or sporting event to persons outside the premises, whether over the internet or as part of a radio or television broadcast, or
    - (iii) rehearse, train, practise or otherwise prepare for a performance or sporting event,
  - (b) premises of a listed business in sub-paragraph (2)(c), (f), or (j) for education or training purposes,
  - (c) premises of a listed business in sub-paragraph (2)(j) for providing voluntary or charitable services,
  - (d) premises of a listed business in sub-paragraph (2)(a), (b), (c), (d), (f), (g), (j) or (k) for any purpose requested by the Scottish Ministers, a health board, a local authority or the Scottish Courts and Tribunals Service,
  - (e) any suitable premises to host blood donation sessions,
  - (f) any suitable premises that are used for the purposes of professional sport.
- (4) Sub-paragraph (1) does not prevent the use of premises, while those remain closed to members of the public, to take preparatory steps in pursuance of a requirement in paragraph 8.
- (5) If a listed business (“business A”) forms part of a larger business (“business B”) the person responsible for carrying on business B complies with the requirement in sub-paragraph (1)(a) if it closes down business A.
- (6) In sub-paragraph (2)—
- (a) “sexual entertainment venue” has the meaning given by section 45A of the Civic Government (Scotland) Act 1982(42),
  - (b) “close contact service” means—
    - (i) hairdressing and barber services,
    - (ii) beauty and nail services (including make-up services),
    - (iii) hair removal services,
    - (iv) tattoo, piercing and body modification services,
    - (v) fashion design, dress-fitting and tailoring services,
    - (vi) indoor portrait photography and art services,
    - (vii) massage therapies, but not sports massage provided only to professional sportspersons,
    - (viii) complementary and alternative medicine services requiring physical contact or close physical proximity between persons, but not osteopathy and chiropractic services,
    - (ix) spa and wellness services,

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(42) 1982 c.45. Section 45A was inserted by the Air Weapons and Licensing (Scotland) Act 2015 (asp 10), section 76(3).

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

- (x) other services or procedures which require physical contact or close physical proximity between a provider and a customer and are not ancillary to medical, health, or social care services.

**Requirement to close retail and library premises in a Level 4 area to members of the public**

2.—(1) A person who is responsible for carrying on a business which offers goods for sale or hire in a shop or provides library services in a Level 4 area must—

- (a) cease to carry on that business or provide that service except by making deliveries or otherwise providing collection 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,
- (b) close any premises which are not required to carry out its business or provide its services as permitted by sub-paragraph (1)(a),
- (c) cease to admit any person to its premises who is not required to carry on its business or provide its services as permitted by sub-paragraph (1)(a).

(2) Sub-paragraph (1) does not apply to any business which provides hot or cold food for consumption off the premises.

(3) Sub-paragraph (1) does not apply to any of the following—

- (a) food retailers, including food markets, supermarkets, convenience stores and corner shops,
- (b) off licenses and licensed shops selling alcohol (including breweries),
- (c) pharmacies (including non-dispensing pharmacies) and chemists,
- (d) newsagents,
- (e) homeware, building supplies and hardware stores,
- (f) petrol stations,
- (g) car repair and MOT services,
- (h) bicycle shops,
- (i) taxi or vehicle hire businesses,
- (j) banks, building societies, credit unions, short-term loan providers, savings clubs, cash points and undertakings which by way of business operate a currency exchange office, transmit money (or any representation of money) by any means or cash cheques which are made payable to customers,
- (k) post offices,
- (l) funeral directors,
- (m) laundrettes and dry cleaners,
- (n) dental services, opticians, audiology services, chiropody services, chiropractors, osteopaths and other medical or health services, including services relating to mental health,
- (o) veterinary surgeons and pet shops,
- (p) agricultural supplies shops and agricultural markets,
- (q) storage and distribution facilities, including delivery drop off or collection points, where the facilities are in the premises of a business included in this sub-paragraph,
- (r) car parks,

- (s) public toilets,
- (t) livestock markets or auctions,
- (u) garden centres, plant nurseries, outdoor markets, and outdoor car lots.

#### **Requirement to cease providing holiday accommodation in a Level 4 area**

3.—(1) A person who is responsible for carrying on a business in a Level 4 area consisting of the provision of holiday accommodation, whether in a hotel, hostel, bed and breakfast accommodation, holiday apartment, home, cottage or bungalow, campsite, caravan park or boarding house, must cease to carry on that business.

(2) Sub-paragraph (1) does not prevent holiday accommodation from being provided—

- (a) to any person, who—
  - (i) is unable to return to their main residence,
  - (ii) uses that accommodation as their main residence,
  - (iii) is living in that accommodation for work purposes,
  - (iv) needs accommodation while moving house,
  - (v) needs accommodation to attend a funeral,
- (b) to the homeless or to support services for the homeless,
- (c) to host blood donation sessions, or
- (d) for any purpose requested by the Scottish Ministers or a local authority.

#### **Requirement to cease mobile close contact services in a Level 4 area**

4.—(1) A person who provides a close contact service must not provide that service in a Level 4 area as a mobile close contact service.

(2) For the purposes of this paragraph—

- (a) a “close contact service” means—
  - (i) hairdressing and barber services,
  - (ii) beauty and nail services (including make-up services),
  - (iii) hair removal services,
  - (iv) tattoo, piercing and body modification services,
  - (v) fashion design, dress-fitting and tailoring services,
  - (vi) indoor portrait photography and art services,
  - (vii) massage therapies,
  - (viii) complementary and alternative medicine services requiring physical contact or close physical proximity between persons, but not osteopathy and chiropractic services,
  - (ix) spa and wellness services,
  - (x) other services or procedures which require physical contact or close physical proximity between a provider and a customer and are not ancillary to medical, health, or social care services.
- (b) a “mobile close contact service” means a close contact service which is provided at a location other than—
  - (i) fixed business premises which have as one of their uses the provision of the service,

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- (ii) a room which is used exclusively for the provision of the service and is situated within a private dwelling, hospice, or other care setting.

## 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.

#### **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,
  - (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—
    - (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.

#### **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—
- (a) for the purpose of a marriage ceremony or civil partnership registration, or
  - (b) in connection with a funeral.

#### **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)),
    - (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)), 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,

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

- (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<sup>(43)</sup>,
  - (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<sup>(44)</sup>,
- “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<sup>(45)</sup>.
- (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, including workplace canteens,
  - (d) bars, including bars in hotels or members’ clubs, and
  - (e) public houses.

### **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,

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(43) 2016 asp 9.

(44) 1980 c.44.

(45) 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).

- (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).

**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<sup>(46)</sup>,

“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.

## PART 3

### Restrictions on gatherings

**Restriction on public gatherings indoors in protected Level 4 area**

**11.**—(1) A person must not participate in a gathering in a public place located in a Level 4 area, unless the gathering—

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<sup>(46)</sup> 2020 c.7.

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

- (a) consists of no more than six persons from no more than two households,
- (b) is for the purpose of—
  - (i) work or providing voluntary or charitable services,
  - (ii) childcare, education or training,
  - (iii) attending a place of worship,
  - (iv) providing care or assistance to a vulnerable person,
  - (v) providing emergency or medical assistance,
  - (vi) avoiding injury, illness or escaping a risk of harm,
  - (vii) facilitating a house move,
  - (viii) facilitating shared parenting arrangements,
  - (ix) participating in legal proceedings or fulfilling a legal obligation,
  - (x) donating blood,
  - (xi) accessing public services, including—
    - (aa) social services,
    - (bb) services provided by the Department for Work and Pensions,
    - (cc) services provided to victims (such as victims of crime),
- (c) relates to a funeral, marriage ceremony or civil partnership registration, or
- (d) is taking place in student accommodation, where all the persons in the gathering—
  - (i) are using cooking, dining, toilet or washing facilities which are shared with any person who is not a member of their household, and
  - (ii) have the accommodation as their only or main residence.

(2) For the purpose of sub-paragraph (1)(a), children under 12 years of age are not to be included when counting the number of persons participating in a gathering but are to be included when counting the number of households participating in a gathering.

**Restriction on public gatherings outdoors in a Level 4 area**

**12.—(1)** A person must not participate in a gathering in a public place outdoors located in a Level 4 area, unless the gathering—

- (a) consists of no more than six persons from no more than two households,
- (b) consists of no more than six persons who are all under 18 years of age, where at least one person in the gathering has attained 12 years of age but has not attained 18 years of age,
- (c) consists of persons who are all under 12 years of age,
- (d) is for the purpose of—
  - (i) work or providing voluntary or charitable services,
  - (ii) childcare, education or training,
  - (iii) attending a place of worship,
  - (iv) providing care or assistance to a vulnerable person,
  - (v) providing emergency or medical assistance,
  - (vi) avoiding injury, illness or escaping a risk of harm,
  - (vii) facilitating a house move,
  - (viii) facilitating shared parenting arrangements,

- (ix) participating in legal proceedings or fulfilling a legal obligation,
- (x) donating blood,
- (xi) accessing public services, including—
  - (aa) social services,
  - (bb) services provided by the Department for Work and Pensions,
  - (cc) services provided to victims (such as victims of crime),
- (xii) organised exercise which is not a contact sport,
- (e) relates to a funeral, marriage ceremony or civil partnership registration, or
- (f) is taking place in student accommodation, where all the persons in the gathering—
  - (i) are using cooking, dining, toilet or washing facilities which are shared with any person who is not a member of their household, and
  - (ii) have the accommodation as their only or main residence.
- (2) For the purpose of sub-paragraph (1)(a), children under 12 years of age are not to be included when counting the number of persons or households participating in a gathering.
- (3) For the purpose of sub-paragraph (1)(d)(xii), exercise is “organised” if—
  - (a) it is organised by—
    - (i) a person who is responsible for carrying on a business or providing a service,
    - (ii) a person who is responsible for a place of worship,
    - (iii) a charity or other not for profit organisation,
    - (iv) a club or political organisation, or
    - (v) the governing body of a sport or other activity, and
  - (b) the organiser has taken such measures described in paragraph 8(1)(a) and (b) as are relevant to the particular activity or exercise, taking into account any relevant guidance issued by the Scottish Ministers.

#### **Restriction on gatherings in private dwellings in a Level 4 area**

- 13.—(1)** A person must not attend a gathering in a private dwelling located in a Level 4 area, unless the gathering—
- (a) takes place outdoors and consists of no more than six persons from no more than two households,
  - (b) takes place outdoors and—
    - (i) where at least one person in the gathering has attained 12 years of age but has not attained 18 years of age, consists of no more than six persons who are all under 18 years of age, or
    - (ii) all the persons in the gathering are under 12 years of age,
  - (c) is for the purpose of—
    - (i) work or providing voluntary or charitable services,
    - (ii) childcare, education or training,
    - (iii) providing care or assistance to a vulnerable person,
    - (iv) providing emergency or medical assistance,
    - (v) avoiding injury, illness or escaping a risk of harm,
    - (vi) facilitating a house move,

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

- (vii) fulfilling a legal obligation,
  - (viii) facilitating shared parenting arrangements,
  - (d) is a funeral, marriage ceremony or civil partnership registration, or
  - (e) is taking place in student accommodation, where all the persons in the gathering—
    - (i) are using cooking, dining, toilet or washing facilities which are shared with any person who is not a member of their household, and
    - (ii) have the accommodation as their only or main residence.
- (2) For the purpose of sub-paragraph (1)(a), children under 12 years of age are not to be included when counting the number of people or households attending a gathering.

## SCHEDULE 6

Regulation 3(6)

### Areas

- 1.—(1) This is the table referred to in regulation 3(6).  
 (2) The entries in column 2 are references to local government areas<sup>(47)</sup>.

<i>Column (1)</i>	<i>Column (2)</i> <i>Area</i>	<i>Column (3)</i> <i>Level of area</i>
1	East Ayrshire	3
2	North Ayrshire	3
3	South Ayrshire	3
4	Scottish Borders	2
5	Dumfries and Galloway	2
6	Fife	2
7	Clackmannanshire	3
8	Falkirk	3
9	Stirling	3
10	Moray	1
11	Aberdeen City	2
12	Aberdeenshire	2
13	East Renfrewshire	3
14	Inverclyde	3
15	Renfrewshire	3
16	West Dunbartonshire	3

<sup>(47)</sup> See the Local Government etc. (Scotland) Act 1994 (c.39) (“the 1994 Act”), sections 1 and 3 and schedule 1; and the Local Government (Scotland) Act 1975 (c.65), section 23 (as amended by the 1994 Act, schedule 13, paragraph 92(5) and the Local Government (Gaelic Names) (Scotland) Act 1997 (c.6), section 1).

<i>Column (1)</i>	<i>Column (2)</i>	<i>Column (3)</i>
	<i>Area</i>	<i>Level of area</i>
17	East Dunbartonshire	3
18	Glasgow City	3
19	Highland	1
20	Argyll and Bute	2
21	South Lanarkshire	3
22	North Lanarkshire	3
23	East Lothian	3
24	Midlothian	3
25	City of Edinburgh	3
26	West Lothian	3
27	Orkney Islands	1
28	Shetland Islands	1
29	Angus	2
30	Dundee City	3
31	Perth and Kinross	2
32	Na h-Eileanan Siar	1

## SCHEDULE 7

Regulation 3

## Face Covering Requirements

**Requirement to wear face coverings on public transport**

1.—(1) A person who uses a passenger transport service or passenger transport service premises must wear a face covering, unless the person is—

- (a) on a school transport service,
- (b) on a cruise ship,
- (c) a child who is under 5 years of age,
- (d) a constable acting in the course of their duty,
- (e) an emergency responder (other than a constable) acting in their capacity as an emergency responder,
- (f) providing a passenger transport service, or an employee of that person, and—
  - (i) there is a partition between the person or employee and members of the public, or
  - (ii) the wearing of a face covering would materially impede communicating with other persons about a risk of harm or for other safety purposes,
- (g) flying or otherwise operating a passenger transport service for the carriage of passengers by air,

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

- (h) on a ferry, where—
    - (i) the person is on part of the ferry which is entirely outdoors, or
    - (ii) a distance of at least two metres is maintained between the person and other persons,
  - (i) seeking medical assistance, and—
    - (i) the wearing of a face covering would materially impede the seeking of the assistance, or
    - (ii) the assistance is emergency assistance and either the person does not have a face covering with them or there is not time to put one on,
  - (j) providing care or assistance to a vulnerable person, including emergency assistance, where—
    - (i) the wearing of a face covering would materially impede the seeking of the assistance, or
    - (ii) the assistance is emergency assistance and either the person does not have a face covering with them or there is not time to put one on,
  - (k) acting to avoid injury, or illness or to escape a risk of harm, where—
    - (i) the wearing of a face covering would materially impede the seeking of the assistance, or
    - (ii) the assistance is emergency assistance and either the person does not have a face covering with them or there is not time to put one on,
  - (l) unable to put on, wear or remove a face covering—
    - (i) because of any physical or mental illness or impairment or disability (within the meaning of section 6 of the Equality Act 2010<sup>(48)</sup>), or
    - (ii) without severe distress,
  - (m) communicating with a person who has difficulties communicating (in relation to speech, language or otherwise) and relies on lip reading or facial expression to be able to communicate,
  - (n) eating or drinking,
  - (o) taking medication, the taking of which reasonably requires that the person is not wearing a face covering, or
  - (p) complying with a request by a relevant person or another person acting in the course of their duties, and in this sub-paragraph “relevant person” has the meaning given by regulation 4(11).
- (2) For the purpose of paragraph (1)—
- (a) a person uses a passenger transport service when—
    - (i) they are—
      - (aa) boarding any mode of transport by means of which a passenger transport service is provided, or
      - (bb) on board any mode of transport, whether or not for the purpose of travel, by means of which a passenger transport service is provided, and
    - (ii) that service is available for use by the public,
  - (b) a person uses passenger transport service premises when—

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<sup>(48)</sup> 2010 c.15.

- (i) they are present at premises where a passenger transport service may provide, stop or terminate their service, and
- (ii) the part of those premises in which they are present is available for use by the public.

### **Requirement to wear face coverings in certain indoor places**

2. A person who enters or remains within a place listed in paragraph 3 must wear a face covering, unless the person is—

- (a) a child who is under 5 years of age,
- (b) a constable acting in the course of the constable's duty,
- (c) an emergency responder (other than a constable) acting in their capacity as an emergency responder,
- (d) a person who is responsible for a place listed in paragraph 3, an employee of that person or a volunteer at that place, where—
  - (i) there is a partition between the person, employee or volunteer and members of the public, or
  - (ii) a distance of at least two metres is maintained between the person, employee or volunteer and members of the public,
- (e) in a restaurant, cafe, bar or public house and seated at a table,
- (f) in a place of worship and leading an act of worship where—
  - (i) there is a partition between the person and any other person, or
  - (ii) a distance of at least two metres is maintained between the person and any other person,
- (g) at a funeral, marriage ceremony or civil partnership registration and leading the service, ceremony or registration where—
  - (i) there is a partition between the person and any other person, or
  - (ii) a distance of at least two metres is maintained between the person and any other person,
- (h) at a marriage ceremony or civil partnership registration and is one of the parties to be married or entering into a civil partnership, where—
  - (i) there is a partition between the parties and any other person, or
  - (ii) a distance of at least two metres is maintained between the parties and any other person,
- (i) seeking medical assistance, and—
  - (i) the wearing of a face covering would materially impede the seeking of the assistance, or
  - (ii) the assistance is emergency assistance and either the person does not have a face covering with them or there is not time to put one on,
- (j) providing care or assistance to a vulnerable person, including emergency assistance, where—
  - (i) the wearing of a face covering would materially impede the seeking of the assistance, or
  - (ii) the assistance is emergency assistance and either the person does not have a face covering with them or there is not time to put one on,
- (k) acting to avoid injury, or illness or to escape a risk of harm, where—

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

- (i) the wearing of a face covering would materially impede the seeking of the assistance, or
- (ii) the assistance is emergency assistance and either the person does not have a face covering with them or there is not time to put one on,
- (l) unable to put on, wear or remove a face covering—
  - (i) because of any physical or mental illness or impairment or disability (within the meaning of section 6 of the Equality Act 2010), or
  - (ii) without severe distress,
- (m) communicating with a person who has difficulties communicating (in relation to speech, language or otherwise) and relies on lip reading or facial expression to be able to communicate,
- (n) eating or drinking,
- (o) taking part in exercise of a type which reasonably requires that the person is not wearing a face covering,
- (p) taking medication, the taking of which reasonably requires that the person is not wearing a face covering,
- (q) complying with a request by a relevant person or another person acting in the course of their duties, and in this sub-paragraph “relevant person” has the meaning given by regulation 4(11),
- (r) undertaking food handling tasks, to avoid risk to the hygiene or safety of food arising from or in connection with the wearing of a face covering, or
- (s) undertaking tasks in the course of their employment, where the wearing of a face covering would cause a material risk of harm.

### **Places where face coverings must be worn**

3.—(1) These are the places where face coverings must be worn in accordance with paragraph 2—

- (a) any building or room used for the retail sale or hire of goods or services, including—
  - (i) restaurants, including restaurants and dining rooms in hotels or members’ clubs,
  - (ii) cafes, including canteens except canteens in a school or any other place where child minding or day care of children within the meaning of paragraphs 12 and 13 of schedule 12 of the Public Services Reform (Scotland) Act 2010<sup>(49)</sup> is provided,
  - (iii) bars, including bars in hotels or members’ clubs,
  - (iv) public houses,
- (b) any indoor communal area—
  - (i) in a workplace, and
  - (ii) where there are no measures in place to keep persons separated by either a—
    - (aa) partition, or
    - (bb) distance of at least two metres,
- (c) any indoor public place, or part of an indoor public place, where a marriage ceremony or civil partnership registration is taking place, including any restaurant, cafe, bar or public house for the duration of the ceremony or registration,

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<sup>(49)</sup> 2010 asp 8.

- (d) amusement arcades and other indoor leisure facilities,
  - (e) banks, building societies and credit unions,
  - (f) bingo halls,
  - (g) bowling alleys,
  - (h) casinos,
  - (i) cinemas,
  - (j) community centres,
  - (k) crematoriums and funeral directors premises,
  - (l) enclosed motor vehicles while in use for a driving lesson or driving test, unless all occupants are members of the same household,
  - (m) indoor fitness studios, gyms, swimming pools or other indoor leisure centres,
  - (n) indoor funfairs,
  - (o) indoor skating rinks,
  - (p) libraries and public reading rooms,
  - (q) museums and galleries,
  - (r) places of worship,
  - (s) post offices,
  - (t) registration offices, meaning any registration office provided under section 8(1) of the Registration of Births, Deaths and Marriages (Scotland) Act 1965<sup>(50)</sup>, and
  - (u) storage and distribution facilities, including collection and drop off points.
- (2) In this paragraph—

“communal area” means an area where persons mingle or gather, such as—

- (a) passageways,
- (b) stairs,
- (c) lifts,
- (d) staff rooms,
- (e) training rooms,
- (f) changing rooms, or
- (g) entrances,

“motor vehicle” has the meaning given by section 185(1) of the Road Traffic Act 1988<sup>(51)</sup>, except that section 189 of that Act (exception for certain pedestrian controlled vehicles and electrically assisted pedal cycles) applies as it applies for the purposes of that Act, and

“workplace” excludes—

- (a) a school, and
- (b) any other place where child minding or day care of children within the meaning of paragraphs 12 and 13 of schedule 12 of the Public Services Reform (Scotland) Act 2010<sup>(52)</sup> is provided.

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<sup>(50)</sup> 1965 c.49. Section 8(1) was amended by section 51(3)(a) of the Local Government etc. (Scotland) Act 1994 (c.39) and section 37(5) of the Local Electoral Administration and Registration Services (Scotland) Act 2006 (asp 14).

<sup>(51)</sup> 1988 c.52.

<sup>(52)</sup> 2010 asp 8.

## SCHEDULE 8

Regulation 11

## Revocations

<i>Regulations revoked</i>	<i>Reference</i>
The Health Protection (Coronavirus) (Restrictions and Requirements) (Scotland) Regulations 2020	<a href="#">S.S.I. 2020/279</a>
The Health Protection (Coronavirus) (Restrictions and Requirements) (Scotland) Amendment Regulations 2020	<a href="#">S.S.I. 2020/300</a>
The Health Protection (Coronavirus) (Restrictions and Requirements) (Additional Temporary Measures) (Scotland) Regulations 2020	<a href="#">S.S.I. 2020/318</a>
The Health Protection (Coronavirus) (Restrictions and Requirements) (Additional Temporary Measures) (Scotland) Amendment Regulations 2020	<a href="#">S.S.I. 2020/325</a>

**EXPLANATORY NOTE***(This note is not part of the Regulations)*

These Regulations (which come into force at 6 a.m. on 2 November 2020) set out restrictions and requirements which apply in Scotland as a result of coronavirus. Different levels of restrictions and requirements (Level 0 to Level 4) are provided for in schedules 1 to 5 respectively of these Regulations. The levels apply to the local areas specified in schedule 6.

The Regulations require certain premises to close to members of the public. They also require a person who is responsible for a place of worship, carrying on a business or providing a service to take measures, where reasonably practicable, to minimise the risk of exposure to coronavirus. Certain food and drink and public house businesses are made subject to restrictions on opening times and sales.

A person who is responsible for a relevant hospitality premises is required to take measures to obtain and record visitor information, in a suitable filing system, for a period of at least 21 days. They must provide this information to a public health officer as soon as reasonably practicable if so requested for the purpose of preventing the spread of coronavirus or monitoring the spread of infection and the incidence of coronavirus disease. Persons responsible for a place of worship, for carrying on a business or providing a service are also required to have regard to guidance issued by the Scottish Ministers relating to its premises, business or service.

These Regulations create restrictions on gatherings in public places and private dwellings, limiting the number of persons and households which can meet. There are exemptions to these restrictions.

Part 3 of the Regulations also provides for the enforcement of these Regulations, including criminal offences (regulation 5), power of entry (regulation 6) and fixed penalty notices (regulation 7).

At all levels, the Regulations require persons who use a passenger transport service or passenger transport service premises (which are both defined terms in the Regulations) to wear a face covering unless a specific exemption applies (schedule 7). They also require persons who use certain other places, which are listed in schedule 7, to wear a face covering unless a specific exemption applies.

The Scottish Ministers must review the restrictions and requirements imposed by the Regulations at least once every 21 days and must terminate any restriction or requirement as soon as it is no longer necessary to prevent, protect against, control or provide a public health response to the incidence or spread of coronavirus in Scotland. The first review is required by 18 November 2020.

These Regulations expire on 31 March 2021.

These Regulations replace the Health Protection (Coronavirus) (Restrictions and Requirements) (Scotland) Regulations 2020 and the Health Protection (Coronavirus) (Restrictions and Requirements) (Additional Temporary Measures) (Scotland) Regulations 2020.

A Business and Regulatory Impact Assessment has been prepared. Copies may be obtained online at [www.legislation.gov.uk](http://www.legislation.gov.uk).