

SCHEDULE 3

Regulation 26

Enforcement of requirement to take preventative measures on regulated premises

Premises improvement notice

1.—(1) An enforcement officer may issue a notice (a “premises improvement notice”) to a responsible person if the officer considers that—

- (a) the person is not complying with the obligations imposed on the person by regulation 21(2), and
 - (b) the measures specified in the notice are necessary and proportionate in order to ensure that the person complies with those obligations.
- (2) A premises improvement notice must—
- (a) specify the premises to which it relates;
 - (b) specify the measures it requires to be taken in order to ensure that the person complies with the obligations imposed by regulation 21(2);
 - (c) specify a time limit within which the measures must be taken (which must not be less than 48 hours beginning with the time the notice is issued);
 - (d) give details of the right of appeal conferred by paragraph 5.
- (3) In this Schedule, “responsible person” has the meaning given by regulation 21(1).

Premises closure notice

2.—(1) If either condition 1 or condition 2 is satisfied, an enforcement officer may issue a notice (a “premises closure notice”) to a responsible person requiring the premises, or part of the premises, to be closed.

- (2) Condition 1 is—
- (a) a premises improvement notice has been issued to the person,
 - (b) the enforcement officer considers that the person has failed to take the measures specified in the premises improvement notice within the specified time limit, and
 - (c) the officer considers that the closure of the premises, or part of the premises, is necessary and proportionate for the purpose of minimising the risk of exposure to coronavirus.
- (3) Condition 2 is that the enforcement officer considers that—
- (a) the person is not complying with the obligations imposed on the person by regulation 21(2), and
 - (b) the closure of the premises, or part of the premises, (without a premises improvement notice having been issued) is necessary and proportionate for the purpose of minimising the risk of exposure to coronavirus.
- (4) A premises closure notice must—
- (a) contain a description of the premises to be closed,
 - (b) where a premises improvement notice has been issued, set out the measures that the enforcement officer considers—
 - (i) have not been taken, and
 - (ii) must be taken in order to ensure that the responsible person complies with the obligations imposed by regulation 21(2),

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- (c) where a premises improvement notice has not been issued, set out the reasons why the enforcement officer considers that the person is not complying with the obligations imposed by regulation 21(2),
 - (d) in either case, set out the reasons why the enforcement officer considers that closure of the premises is necessary and proportionate for the purpose of minimising the risk of exposure to coronavirus,
 - (e) specify the period for which the notice has effect, and
 - (f) give details of the right of appeal conferred by paragraph 5.
- (5) The period specified under sub-paragraph (4)(e) may not be more than 336 hours (14 days) beginning with the time the notice is issued.
- (6) A premises closure notice has effect from the time at which it is issued or from a later time specified in the notice.
- (7) A premises closure notice may not be issued in relation to premises which form part of critical infrastructure (for example, premises used to generate electricity or supply water) or which are used to provide essential public services.

Effect of premises closure notice

- 3.—(1) As soon as is reasonably practicable after a premises closure notice takes effect, the person to whom it is issued must ensure that—
- (a) the premises to which the notice relates are closed, and
 - (b) no business is carried on or service is provided on, or from, the premises.
- (2) No person may enter, or be on, premises closed under sub-paragraph (1) without a reasonable excuse.
- (3) For the purposes of sub-paragraph (2), the circumstances in which a person has a reasonable excuse include where—
- (a) the person lives on the premises;
 - (b) the person is carrying out essential maintenance or repairs;
 - (c) the person is doing things necessary to ensure that regulation 21(2) can be complied with when the premises are allowed to be open;
 - (d) the person is an enforcement officer or a person assisting an enforcement officer;
 - (e) it is necessary for the person to be on the premises to avoid injury or illness or escape a risk of harm.

Termination of premises improvement or closure notice

- 4.—(1) An enforcement officer may issue a notice terminating a premises improvement notice or a premises closure notice if satisfied that—
- (a) the measures specified in the premises improvement notice (if one was issued) have been taken, or
 - (b) other measures have been taken to ensure that regulation 21(2) can be complied with at the premises in question.
- (2) A premises improvement notice or premises closure notice ceases to have effect at the time notice of the termination is issued.

Appeals

5.—(1) A person to whom a premises improvement notice or premises closure notice is issued may appeal to a magistrates' court against the notice.

(2) An appeal must be made—

(a) by way of complaint for an order, and in accordance with the Magistrates' Courts Act 1980, and

(b) within 7 days after the day the notice is issued.

(3) But a magistrates' court may allow an appeal to be made after the expiry of the period mentioned in sub-paragraph (2)(b) if satisfied that there is a good reason for the failure to appeal before the expiry of that period (and for any delay in applying for permission to appeal out of time).

(4) A magistrates' court may suspend the effect of a premises improvement notice or premises closure notice pending the determination of an appeal.

(5) On an appeal against a premises improvement notice or premises closure notice, a magistrates' court may—

(a) confirm the decision to issue the notice;

(b) direct that the notice is to cease to have effect;

(c) modify the notice;

(d) make such other order as the court considers appropriate.

(6) If the magistrates' court directs that a notice is to cease to have effect or modifies a notice, it may order the local authority for the area in which the premises in question are situated to pay compensation for loss suffered as the result of the issue of the notice.

(7) An appeal by either party against the decision of a magistrates' court on an appeal under this section may be brought to the Crown Court.

(8) On an appeal to the Crown Court, the Court may—

(a) confirm, vary or reverse the decision of the magistrates court;

(b) remit the case to the magistrates' court to dispose of in accordance with directions given by the Crown Court.

Issuing premises improvement and closure notices and terminations

6.—(1) A premises improvement notice, premises closure notice or a termination of either of those types of notice is issued to a person by giving a copy of it in writing to that person.

(2) But where the person responsible for the premises to which the notice or termination relates is not on the premises when it is to be issued, the notice is to be treated as having been issued to that person if—

(a) a copy of it is given to any other person on the premises who appears to be responsible for any business or service being carried out on the premises, or

(b) if there is no such person on the premises when the notice is to be issued, a copy of the notice is placed in a conspicuous position on the premises.

Publicising premises improvement and closure notices

7.—(1) This regulation applies where an enforcement officer has issued a premises improvement notice or a premises closure notice.

(2) As soon as reasonably practicable after issuing the notice, the enforcement officer must—

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- (a) display a copy of the notice, and a sign in the form set out in Schedule 4, in a prominent place near every entrance to the premises;
 - (b) arrange for the notice to be published on the website of the local authority for the area in which the premises are located.
- (3) A notice or sign displayed under sub-paragraph (2)(a) must be at least A4 size.
- (4) A notice required to be displayed and published under sub-paragraph (2) must continue to be displayed and published, and a sign required to be displayed under that sub-paragraph must continue to be displayed, for as long as the notice has effect.

Production of documents etc.

8.—(1) An enforcement officer may, to facilitate the exercise of a power conferred on the officer by this Schedule, require the production of, inspect and take copies of, any documents or electronic records.

(2) A person may not be required under sub-paragraph (1) to provide a document, record or other information in respect of which a claim for legal professional privilege could be maintained in legal proceedings.