



Between

[REDACTED]

Appellant

and

THE REVENUE COMMISSIONERS

Respondent

Determination

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Introduction

1. This matter comes before the Tax Appeals Commission (hereinafter “the Commission”) as an appeal against a refusal by the Revenue Commissioners (“the Respondent”) to allow the Appellant to avail of the Covid Restrictions Support Scheme (“CRSS”).
2. CRSS was introduced by section 11 of the Finance Act 2020. It amends the Taxes Consolidation Act 1997 (“TCA 1997”) by inserting two sections, section 484 and section 485.
3. Section 484 TCA 1997 sets out the objectives of the CRSS which it states are “*to provide the necessary stimulus to the economy.... so as to mitigate the effects, on the economy, of Covid-19...*”
4. Section 485 TCA 1997 sets out the eligibility criteria and details of the scheme. It permits eligible businesses to make a claim to the Respondent for a payment known as Advance Credit for Trading Expenses (ACTE).
5. Section 485 (24) TCA 1997 provides a right of appeal to the Commission where a Revenue Officer determines an entity does not meet the eligibility criteria for the scheme. In accordance with that section, the Appellant makes its appeal.

Background

6. The Appellant’s business activities are the trade of broadcasting and the promotion of [REDACTED]. The Appellant broadcasts a [REDACTED] called ‘[REDACTED]’ which promotes [REDACTED] and their associated events. The Appellant’s income is derived from advertisements and sponsorship from the [REDACTED] and its [REDACTED] is considered an infomercial. In addition, the Appellant receives commission from the sale of tickets to [REDACTED] concerts/awards and the sale of [REDACTED] DVD’s and CD’s.
7. On 5th November 2020, the Appellant registered for the CRSS. Payments under that scheme in the sum of €10,505.60 were paid to the Appellant for the period 13th October 2020 to 29th August 2021.
8. On 30th September 2021, the Appellant was advised, following a review of its eligibility for CRSS, that the Respondent formed the opinion the Appellant did not meet the eligibility criteria for the CRSS. As such the Appellant was denied further payments under the CRSS and requested to repay the Respondent those sums previously paid to it.
9. On foot of this notification, the Appellant’s agent replied as follows:

'I think the issue is that the communication that he engages in is paid for out of advertising revenue which is entirely dependent on the [REDACTED], which [REDACTED] also provides the content for his broadcasts. And [REDACTED] was not deemed essential. So he had neither content nor advertising revenue.

Additionally he [REDACTED] and ordinarily receives benefit from the ticket sales. This would be across a range of venues, all of which were closed to [REDACTED]

So yes while pure communication was an essential service his content and revenue stream were not so his business was effectively dead in the water.'

10. On 1st October 2021, the Respondent wrote to the Appellant highlighting the reasons why the Appellant was deemed ineligible for inclusion on the CRSS. The Appellant's agent replied to that correspondence the same day as follows:

'Ok. Thanks. I hear what you are saying. We will be submitting a case for consideration to outline the hybrid nature of his business and how, although engaged in broadcasting, he is utterly dependant on [REDACTED] to both fill his air time and pay for the advertising.'

11. The Respondent issued a revised letter to the Appellant on 4th October 2021. The purpose of this letter was to explain to the Appellant why its business activities were deemed ineligible for inclusion on the CRSS. The provided reasons were as follows:

'The trade must be carried on from a business premises that is located in a region subject to restrictions introduced in line with the Government's 'Living with Covid-19 Plan', with the result that the business is required to prohibit or significantly restrict customers from accessing its premises to purchase goods or services.

...

It is not sufficient that the trade of a business has been impacted because of a reduction in customer demand as a consequence of Covid-19, or because customers to whom the business supplies goods or services are currently not purchasing these goods/services due to Covid-19 restrictions. To be eligible for the CRSS, a supplier business must meet the eligibility criteria in its own right; the business must be required by the specific terms of Covid restrictions to prohibit or significantly restrict customers from accessing its own business premises [emphasis added], with the result that the business is either required to temporarily close or to operate at a significantly reduced level.'

12. On 10th October 2021, the Appellant's agent provided the following information to the Respondent:

“My client [REDACTED] of [REDACTED] has asked me to make the following representations to you in connection with your adjudication on his CRSS payment. In short he contends that he is not principally in the broadcasting business but in the [REDACTED] with the [REDACTED] as just one element of that total package.

My client and I feel that there is a fundamental misunderstanding of the nature of his business resulting in it being classified as essential and not eligible for CRSS.

Broadcasting is just one element of his total business and revenue streams. His business is principally [REDACTED] and [REDACTED]. The [REDACTED] is principally the promotion of [REDACTED] and their associated events, and is completely dependent on adverts and sponsors from the [REDACTED] in order to keep going. The show is basically an infomercial. The show runs on [REDACTED] and in order to retain his slot he was contractually obliged to pay for it and provide material throughout COVID. He fulfilled this obligation by re-editing old material and using old sponsorship segments for which he was not being paid. If he relinquished the slot he would lose it and lose any opportunity in the future of coming back on air and generating advertising and sponsorship revenue.

The balance of his business relates to commissioning and promoting [REDACTED] [REDACTED]. He also runs [REDACTED] with concerts. And he commissions overseas weekend events for [REDACTED]. He generates revenue by selling tickets to all of these events and principally by receiving fees for advertising and sponsorship on the programmes that he broadcasts. The programs are designed for the overall promotion of the [REDACTED] in Ireland, and to create a channel through which he can promote [REDACTED] and concerts. As you know all [REDACTED] [REDACTED] was prohibited throughout the pandemic so there were neither events nor [REDACTED] to promote and therefore no revenue at all for my client.’

13. On 12th October 2021, a Determination letter issued to the Appellant confirming its ineligibility for the following reason:

“Section 485 (1) of the Taxes Consolidation Act, 1997 (as inserted by Section 11 of the Finance Act 2020) provides that, for the purposes of the CRSS, the business

premises is required to prohibit or significantly restrict customers from accessing its premises.'

14. The Appellant's agent responded on the same date and stated:

'Ok. We hear what you are saying. It seems to be an unfortunate oversight on behalf of policy makers in that my client has fallen between every stool as regards eligibility for all supports.

He has not fully resumed business so can't claim under that. He has no employees so can't claim under that. His turnover was sub € [REDACTED] so couldn't claim under any of the [REDACTED] supports. And yet he still has to incur costs because of his contractual obligations.

We applied for the CRSS in good faith genuinely believing that he was eligible. However we understand what you are saying in your attached letter and appreciate that you have to apply the scheme as the rules specify.'

15. On 20th October 2021, the Respondent sought repayment of the €10,505.60 in CRSS payments made to the Appellant.

16. By way of reply the same day, the Appellant's agent stated:

'I forwarded that letter to my client and discussed it with him. A couple of points to make on the matter.

Firstly he would like to put on record his complete inability to repay the funds as they were all spent on keeping the business going, in addition to using cash reserves of the business.

Secondly he did not take any salary or expenses from the business during that time because the business could not sustain it. Rather he was paying some expenses privately again to keep the business alive.

Thirdly as each other grant was announced we looked at his eligibility and he did not qualify for various reasons. I will look at the new business resumption support scheme and see if there is anything there for him.

And finally he feels that there is a total misunderstanding of his business activity such that he falls between every stool in the application of the criteria for the various supports. As we stated before broadcasting which does happen from his registered address is not his core business, [REDACTED] is however. Much of the

promotion activity happens from his registered address in that programmes and advertisements are edited etc. But again as we explained previously all of this promotional activity revolves around [REDACTED] happening in the country. [REDACTED] was shut down so his business was effectively shut down, entirely beyond his control.

I understand what you are saying regarding the application of the rules of the CRSS Scheme. But I think we are now asking you what our route at this stage is to appeal the application of the rules of the scheme in this very unique situation.'

17. Subsequently, on 21st October 2021, the Respondent advised the Appellant of its right of appeal. A notice of appeal was lodged with the Commission on 10th November 2021.
18. [REDACTED] ("the Appellant Director") represented the Appellant at the appeal. The Respondent was represented by Counsel, its solicitor and three members of its staff. In considering this appeal, the Commissioner had the benefit of written and oral submissions made by both parties which are considered below.

Submissions

Appellant

19. The Appellant submitted that the Respondent had erred in its determination in finding that it was an "essential service" and thus eligible to open during the period of Covid-19 restrictions.
20. The Appellant submitted that its [REDACTED] was a "paid for" infotainment and as such its business activities were that of "advertising services" rather than "broadcasting". Given this position, the Appellant submitted that the Respondent had misclassified its business activities and wrongly concluded that it was ineligible for CRSS payments.
21. The Appellant explained that the channel which aired its infotainment was unable to broadcast on the [REDACTED] platform as it was not deemed an essential service and as such during the period of Covid-restrictions it only broadcasted the Appellant's infotainment on [REDACTED]. The Appellant submitted that these activities were loss making to the extent that the Appellant Director was unable to draw a salary from the Appellant and that he, the Appellant Director, was further required to fund the Appellant's activities from his own resources.
22. The Appellant submitted that it was required to continue its activities during the period of Covid-19 restrictions as it was contractually required to do so and was in fear if it did not continue its activities it would lose its "slot" with its broadcaster. The Appellant explained,

if this occurred, its business would be required to permanently close since it would have no platform to air its services.

23. The Appellant explained that the business was operated from the Appellant's Directors home office and while customers did not attend those premises, its business activities were severely curtailed during the Covid-19 pandemic owing to the cancellation of concerts and such like.
24. The Appellant submitted that it was ineligible to receive any Government related supports during the Covid-19 pandemic, save the CRSS payments, as it "fell between two stools". The Appellant explained that as its turnover was below specified limits required for [REDACTED] grants, it could not claim this type of support. In addition, the Appellant submitted that as it had no employees it was unable to obtain the wage related supports in the form of the Temporary Wages Subsidy Scheme ("TWSS") and the Emergency Wage Subsidy Scheme ("EWSS").
25. In terms of the requirement to repay the amount of CRSS payments received by it, the Appellant stated as follows:

"We got nothing and no help of any kind, and now you want the money back from me. Totally unfair as [REDACTED] was not an essential service. Just because it's broadcast on [REDACTED] not make it an essential service during Covid-19."

26. In summation, the Appellant submitted as its services were not "essential services" it was eligible to receive the CRSS payments. In addition, the Appellant submitted that as it was not eligible to receive other forms of Government related Covid-19 supports, then the Commission ought to find that the Appellant is not required to repay the amount of CRSS payments received by it.

Respondent

27. The Respondent submitted that the Appellant failed to satisfy a number of criteria necessary for it to avail of CRSS payments.
28. In the first instance, the Respondent submitted that as "broadcasting services" were deemed an essential service and as the Appellant had continued its activities during the period of Covid restrictions (on the basis it was providing an essential service), then it's the Appellant's submissions that it was not an essential service were illogical.
29. Secondly, the Respondent submitted as the Appellant's turnover for 2020 [REDACTED] had not fallen by 75% of the 2019 turnover [REDACTED], then it was ineligible for the CRSS payments which it had received in respect of the year 2020.

30. Furthermore, the Respondent submitted as the Appellant was unable to demonstrate that it was required to restrict customers from accessing its business premises and as this was an essential criteria for CRSS eligibility, then this was further evidence that the Appellant's appeal must fail.
31. The Respondent submitted that while it had empathy for the position the Appellant now found itself in as stated by Mr. Justice Charleton in *Menolly Homes Limited v Appeal Commissioners & Revenue Commissioners* [2010] IEHC 49, "taxation law has no equity" and the function of the Commission was to implement the laws as passed by the Oireachtas without deviation or expansion. In so doing, the Respondent submitted that the Appellant's appeal could not succeed.

Material Facts

32. The Commissioner found the following material facts from the documentary evidence, which were not contested by the Respondent, and are required eligibility conditions for inclusion on the CRSS:
 - 32.1. The Appellant's turnover for 2021 was less than 25% of the average weekly turnover level of that in 2019.
 - 32.2. They Appellant intended to (and subsequently did) carry on business activities after the "Covid-19 restrictions" were lifted.
 - 32.3. The Appellant had complied with all their VAT registration and return obligations.
 - 32.4. The Appellant held a tax clearance certificate at all material times.
 - 32.5. The Appellant operated its business from a business premises.
33. In addition, the Commissioner found the following material facts from the evidence presented at the hearing:
 - 33.1. The Appellant's business activity is that of the provision of infotainment services, the sale of tickets and DVD's/CD's.
 - 33.2. No breakdown was provided to the commission as to the amount of income received by the Appellant in 2019 and 2021 in respect of the separate and distinct income streams.
 - 33.3. The Appellant operated its business activities during the period of Covid-19 restrictions.
 - 33.4. No evidence was presented to the Commission which evidenced that customers ordinarily attended the Appellant's business premises.
 - 33.5. The Appellant's turnover for 2020 was not less than 25% of the weekly average turnover in 2019.

- 33.6. The Appellant received the sum of €10,505.60 in CRSS payments for the period 13th October 2020 to 29th August 2021.
- 33.7. A determination notice issued to the Appellant from the Respondent on 12th October 2021 denying eligibility under the CRSS and demanding the return of sums previously paid.

Analysis

34. The central issue to be determined in this appeal by the Commissioner is whether the Appellant was required as a result of applicable business restriction provisions to prohibit, or significantly restrict, members of the public from having access to its business premises which is a prerequisite for CRSS eligibility under section 485 TCA 1997.
35. Section 485 TCA 1997 in itself is one of the more complicated sections of the TCA 1997. When combined with differing statutes and statutory instruments, it is appreciated by the Commissioner that it is not transparent for members of the public to implement as illustrated in this appeal.
36. The rules for statutory interpretation are set out in the judgment of McDonald J. in *Perrigo Pharma International DAC v John McNamara, the Revenue Commissioners and ors.* 2020 IEHC 552 (“*Perrigo*”) where he summarised the fundamental principles of statutory interpretation at paragraph 74 as follows:

“The principles to be applied in interpreting any statutory provision are well settled. They were described in some detail by McKechnie J. in the Supreme Court in Dunnes Stores v. The Revenue Commissioners [2019] IESC 50 at paras. 63 to 72 and were reaffirmed recently in Bookfinders Ltd v. The Revenue Commissioner [2020] IESC 60. Based on the judgment of McKechnie J., the relevant principles can be summarised as follows:

(a) If the words of the statutory provision are plain and their meaning is self-evident, then, save for compelling reasons to be found within the Act as a whole, the ordinary, basic and natural meaning of the words should prevail;

(b) Nonetheless, even with this approach, the meaning of the words used in the statutory provision must be seen in context. McKechnie J. (at para. 63) said that: “... context is critical: both immediate and proximate, certainly within the Act as a whole, but in some circumstances perhaps even further than that”;

(c) Where the meaning is not clear but is imprecise or ambiguous, further rules of construction come into play. In such circumstances, a purposive interpretation is permissible;

(d) Whatever approach is taken, each word or phrase used in the statute should be given a meaning as it is presumed that the Oireachtas did not intend to use surplusage or to use words or phrases without meaning.

(e) In the case of taxation statutes, if there is ambiguity in a statutory provision, the word should be construed strictly so as to prevent a fresh imposition of liability from being created unfairly by the use of oblique or slack language;

(f) Nonetheless, even in the case of a taxation statute, if a literal interpretation of the provision would lead to an absurdity (in the sense of failing to reflect what otherwise is the true intention of the legislature apparent from the Act as a whole) then a literal interpretation will be rejected.

(g) Although the issue did not arise in Dunnes Stores v. The Revenue Commissioners, there is one further principle which must be borne in mind in the context of taxation statute. That relates to provisions which provide for relief or exemption from taxation. This was addressed by the Supreme Court in Revenue Commissioners v. Doorley [1933] I.R. 750 where Kennedy C.J. said at p. 766: "Now the exemption from tax, with which we are immediately concerned, is governed by the same considerations. If it is clear that a tax is imposed by the Act under consideration, then exemption from that tax must be given expressly and in clear and unambiguous terms, within the letter of the statute as interpreted with the assistance of the ordinary canons for the interpretation of statutes. This arises from the nature of the subject-matter under consideration and is complementary to what I have already said in its regard. The Court is not, by greater indulgence in delimiting the area of exemptions, to enlarge their operation beyond what the statute, clearly and without doubt and in express terms, except for some good reason from the burden of a tax thereby imposed generally on that description of subject matter. As the imposition of, so the exemption from, the tax must be brought within the letter of the taxing Act as interpreted by the established canons of construction so far as possible."

37. Section 485(1) TCA 1997 provides a number of definitions, one of which is "business activity". A "business activity", is defined as "in relation to a person carrying on a trade

either solely or in partnership, means— (A) where customers of the trade acquire goods or services from that person from one business premises, the activities of the trade...”.

38. Section 485(1) TCA 1997 further defines a business premises as: *"...in relation to a business activity a building or other fixed physical structure from which the business activity is ordinarily carried on."*
39. The term “Applicable business restrictions” is defined in section 485(1) TCA 1997 as *"shall be construed in the manner provided for in the definition of ‘Covid restrictions period’ in this subsection; Covid restrictions" pertain to: "Restrictions provided for in regulations made under sections 5 and 31A of the Health Act 1947, being restrictions for the purposes of preventing, or reducing the risk of, the transmission of Covid-19 and which have the effect of restricting the conduct of certain business activity during the specified period”.*
40. In essence what section 485 TCA 1997 provides for is that there is a “Covid restriction”. That restriction is provided for in regulations, made pursuant to section 5 and 31A of the Health Act 1947.
41. Those regulations (“the Regulations”) were introduced by a Statutory Instrument 701 of 2020, “Health Act 1947 (Section 31A - Temporary Restrictions) (Covid-19) (No. 10) Regulations 2020 [**Appendix 2**]. On page 3 of those regulations, it states:

“PART 1 - Preliminary and General

Citation, commencement and operation

- 1. (1) These Regulations may be cited as the Health Act 1947...*
- 2. These Regulations shall come into operation on the 31st day of December 2020 and shall have effect for the period beginning on that date and ending on the 31st day of January 2021.”*

42. Section 3 of the Regulations at page 3 provides an interpretation section and includes within the definitions a definition of an “essential service”, as a *"service specified in Part 2 of the Schedule”.*
43. Part 2 of the Schedule set on page 25 of the Regulations includes as an “essential service” :

‘Information and communications

- 9. The following services relating to information and communications.*

...

(b) the production and publication of television and radio programmes, video sound, digital or other electronic content and the broadcast or publication of same to the public or a portion of the public.

...'

44. The Commissioner notes that the Appellant seeks to differentiate its business activities from an "ordinary" [REDACTED] as it considers its productions to be infotainments. However, as the definition of an essential service includes "other electronic content", the Commissioner considers this distinction irrelevant and finds that as the "electronic content" produced by the Appellant was broadcast to the public, its related business activities are considered an essential service.
45. In relation to the other activities provided by the Appellant (the sale of tickets and DVDs/CDs), as the Appellant did not provide the Commission with a separate breakdown of its turnover relating to those activities, the Commissioner is unable to determine if its turnover reduced below the level required under section 485 TCA 1997 (25% of the 2019 recorded turnover).
46. However, the Commissioner finds this omission irrelevant as no evidence was presented to the Commission which demonstrated that the sale of tickets and DVDs/CDs ordinarily occurred at the Appellant's business premises.
47. A further eligibility criteria for CRSS eligibility is contained in section 485 (1) TCA 1997 which required the Appellant to "*prohibit or significantly restrict members of the public from having access to its business premises in which the relevant business activity is carried on...*" Thus, as no evidence was presented to the Commission which demonstrated that any of the Appellant's customers were required to attend its business premises, it follows that the Appellant did not fulfil this requirement under the legislation and as such this denied the Appellant eligibility for CRSS payments in respect of the ticket and DVD/CD sales (which presumably were offered for sale online in any event).
48. It therefore follows as the Appellant's business activities relating to its infotainment services are considered an essential service and as its other business activities did not require it to prohibit or significantly restrict members of the public from accessing its business premises, then it did not fulfil the requirements of section 485 TCA 1997. As such the Commissioner determines that the Appellant was not entitled to avail of CRSS

eligibility and given this position it is required to repay those sums received from the Respondent under the CRSS.

49. The Commissioner notes the Appellant's comments that it did not fulfil the criteria necessary to avail of other Covid 19 "type" grants or subsidies. In *Lee v Revenue Commissioners* [2021] IECA 18, the Superior Courts held that the Commission are a "creature" of statute and must perform its functions in accordance with the provisions of the TCA 1997 as enacted by the Oireachtas.
50. Given this position, the Commission is precluded from offering any equitable reliefs and must as stated apply the provisions of the TCA 1997, without deviation or expansion, in determining appeals within its remit. As the Appellant did not fulfil the conditions required for CRSS eligibility under section 485 TCA 1997, it therefore follows that the Appellant's appeal must be denied and it is required to repay those sums wrongly paid to it in the form of CRSS payments.
51. Section 485 (17) TCA 1997 details the procedure to be followed in situations where an entity, such as the Appellant wrongly claimed and received payments under the CRSS. It provides:

"(a) Where subsequent to a person making a claim under this section, it transpires that

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(i) the requirements in subsection (4) (b) are not met (and a claim in respect of which those requirements are not met is referred to hereafter in this subsection as an 'invalid claim'), or

(ii) the amount claimed exceeds the amount the person is entitled to claim under this section (and a claim to which this subparagraph applies is referred to hereafter in this subsection as an 'overclaim'),

then the person shall, without unreasonable delay—

(I) notify the Revenue Commissioners of the invalid claim or overclaim, as the case may be, and

(II) repay to the Revenue Commissioners—

(A) in respect of an invalid claim, the amount paid in respect of that claim,

(B) in respect of an overclaim, the amount by which the amount paid in respect of that claim exceeds the amount the person is entitled to claim (hereafter referred to in this section as the 'excess amount').

(b) Where a person makes a claim under this section in respect of a claim period and it subsequently transpires that the claim is an invalid claim or an overclaim, as the case may be—

(i) then, subject to subparagraph (ii), the amount of the advance credit for trading expenses paid by the Revenue Commissioners in respect of the invalid claim, or the amount of the advance credit for trading expenses overpaid by the Revenue Commissioners in respect of an overclaim, as the case may be, shall carry interest as determined in accordance with section 1080 (2) (c) as if a reference to the date when the tax became due and payable were a reference to the date the amount was paid by the Revenue Commissioners, and

(ii) where the invalid claim or overclaim, as the case may be, was made neither deliberately nor carelessly (within the meaning of section 1077E) and the person complies with the requirements of paragraph (a)(II), the amount repaid to the Revenue Commissioners in respect of the invalid claim or overclaim, as the case may be, shall carry interest as determined in accordance with section 1080(2)(c) as if a reference to the date when the tax became due and payable were a reference to the date paragraph (a) is complied with.

(c) Paragraph (b) shall apply to tax payable on unauthorised amounts under subsections (15) and (16) as it applies to overpayments arising on invalid or overclaims.”

52. Section 485(15) TCA 1997 provides:

“Where a company makes a claim under this section in respect of a claim period and it subsequently transpires that the claim was not one permitted by this section to be made, and the company has not repaid the amount as required by subsection (17)(a)(II)—

(a) the company shall be charged to tax under Case IV of Schedule D for the chargeable period in which the claim period commences, on an amount equal to 4 times so much of the amount under this section as was not so permitted to be made,”

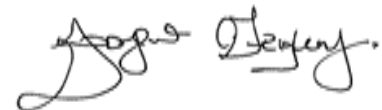
53. In accordance with the provisions of section 485 (17) TCA 1997, the Commissioner determines that the Appellant is required to repay to the Respondent the amount of CRSS wrongly received by it in the form of ACTE payments in the sum of €10,505.60 for the period 13th October 2020 to 29th August 2021.
54. The legislation requires that such sum is to be repaid to the Respondent without “unreasonable delay” and in the event of this not occurring, the Respondent is authorised under section 485 15 (a) TCA 1997 to raise an assessment against the Appellant under Schedule D, Case IV for an amount of €42,022.40 which represents four times the amount of ACTE received by the Appellant in error.
55. It was noted by the Commissioner at the conclusion of the hearing that the Respondent indicated a willingness to collect the CRSS payments, if found to have been paid to the Appellant in error, on an instalment basis and as those circumstances have now crystallised, the Commissioner would encourage the Appellant and the Respondent to engage in this manner. The Commissioner appreciates that it cannot make any determination on the manner of the repayment but notes that it was the Respondent’s initial error that has resulted in this repayment.
56. The burden of proof lies with the Appellant. As confirmed in *Menolly Homes v Appeal Commissioners* [2010] IEHC 49, the burden of proof, in these particular taxation appeals, is on the taxpayer. As confirmed in that case by Charleton J at paragraph 22:-
- “The burden of proof in this appeal process is, as in all taxation appeals, on the taxpayer. This is not a plenary civil hearing. It is an enquiry by the Appeal Commissioner as to whether the taxpayer has shown that the relevant tax is not payable.”*
57. The Commissioner finds that the Appellant has not discharged the burden of proof in this appeal and finds that the Appellant has not shown that they were entitled to avail of the provisions of section 485 TCA 1997.

Determination

58. For the reasons set out above, the Commissioner determines that the Appellant has failed in its appeal and has not succeeded in demonstrating its eligibility for inclusion in the CRSS. Accordingly, the Appellant is required to repay to the Respondent the sum of €10,505.60, representing the ACTE sums received by it in error without “unreasonable delay”. Failing this, the Respondent is authorised to raise an assessment to tax under

Schedule D, Case IV, against the Appellant in the sum of €42,022.40 which represents four times the amount of ACTE received by the Appellant in error.

59. It is understandable that the Appellant and its director may well be disappointed with the outcome of his appeal but the Commissioner has no discretion to deviate from the legislation. The Appellant was correct to avail of its right of appeal and to check its legal entitlements. The Commissioner hopes the Appellant's business has fully recovered since the easing of Covid restrictions.
60. This Appeal is determined in accordance with Part 40A of the Taxes Consolidation Act 1997 and in particular, section 949 thereof. This determination contains full findings of fact and reasons for the determination. Any party dissatisfied with the determination has a right of appeal on a point of law only within 42 days of receipt in accordance with the provisions set out in the TCA 1997.



Andrew Feighery

Appeal Commissioner

14th August 2023

Appendix 1 - Legislation and Guidelines

Section 484 TCA 1997 – “Objectives of Section 485, purposes for which its provisions are enacted and certain duty of Minister for Finance respecting those provisions’ operation” provides:

- (1) (a) The objectives of section 485 are to—
- (i) provide the necessary stimulus to the economy (in addition to that provided by Part 7 of the Emergency Measures in the Public Interest (Covid-19) Act 2020 and the Financial Provisions (Covid-19) (No. 2) Act 2020) so as to mitigate the effects, on the economy, of Covid-19, and
 - (ii) if, as of 1 January 2021, no agreement stands entered into between the European Union and the United Kingdom (with respect to the future relations between them on the relevant matters), mitigate the effects on the economy which are apprehended may arise therefrom.
- (b) In paragraph (a) ‘relevant matters’ means the matters described in Part II of the Political declaration setting out the framework for the future relationship between the European Union and the United Kingdom³.
- (c) The purposes for which the several provisions of section 485 (in this section referred to as the ‘Covid Restrictions Support Scheme’) are, in furtherance of the foregoing objectives, enacted are:
- (i) in addition to the provision of basic mechanisms to fulfil those objectives, to ensure the efficient use of the Covid Restrictions Support Scheme so as to minimise the cost to the Exchequer of the scheme (so far as consistent with fulfilment of those objectives);
 - (ii) to avoid, where possible, allocation of resources to sectors of the economy that are not in need of direct stimulus by means of the Covid Restrictions Support Scheme (and which sectors may reasonably be expected to be restored to financial viability and an eventual growth path by the indirect effects of the scheme);
 - (iii) to protect the public finances through mechanisms for the discontinuance or amendment of one or more of the payments under the Covid Restrictions Support Scheme (or for their variation) in defined circumstances;
 - (iv) to take account of the need to reflect changes in circumstances of persons who, as businesses, are persons in respect of whom payments under the Covid Restrictions Support Scheme are being made, in cases

where such persons avail themselves of other financial supports provided by the State;

(v) to take account of changes in the State's economic circumstances and the demands on its financial resources which may occur in the remainder of the current financial year and thereafter.

(d) It shall be the duty of the Minister for Finance to monitor and superintend the administration of the Covid Restrictions Support Scheme (but this paragraph does not derogate from the function of the care and management conferred on the Revenue Commissioners by section 485(21)).

(e) Without prejudice to the generality of paragraph (d), the Minister for Finance shall cause an assessment, at such intervals as he or she considers appropriate but no less frequently than every 3 months beginning on 13 October 2020, of the following, and any other relevant matters, to be made—

(i) up-to-date data compiled by the Department of Finance relating to the State's receipts and expenditure,

(ii) up-to-date data from the register commonly referred to as the 'Live Register' and data related to that register supplied to the Department of Finance by the Department of Business, Enterprise and Innovation (whether data compiled by that last mentioned Department of State from its own sources or those available to it from sources maintained elsewhere in the Public Service),

(iii) such other data as the Minister for Finance may consider relevant in relation to the impact from, and effects of, Covid-19 or the fact (should that be so) of there not being an agreement of the kind referred to in paragraph (a)(ii), and, if the following is commissioned, by reference to an assessment, on economic grounds, of the Covid Restrictions Support Scheme that may be commissioned by the Minister for Finance and any opinion as to the sustainability of the scheme expressed therein.

(f) Following an assessment under paragraph (e), it shall be the duty of the Minister for Finance, after consultation with the Minister for Public Expenditure and Reform, to determine whether it is necessary to exercise any or all of the powers under subparagraphs (i) to (vi) of subsection (2)(a) so, as appropriate, to—

(i) fulfil, better, the objectives specified in paragraph (a), or

(ii) facilitate the furtherance of any of the purposes specified in paragraph (c),

and, if the Minister for Finance determines that such is necessary, the powers

under one, or more than one, as provided in that subsection (2)(a), of those subparagraphs (i) to (vi) shall become and be exercisable by the Minister for Finance.

(2) (a) Where the Minister for Finance makes a determination of the kind lastly referred to in subsection (1) (f), the Minister for Finance shall, as he or she deems fit and necessary—

(i) make an order that the reference in the definition of ‘Covid restrictions’ in section 485(1) to restrictions provided for in regulations made under sections 5 and 31A of the Health Act 1947 that are for the purpose of preventing, or reducing the risk of, the transmission of Covid-19 and which have the effect of restricting the conduct of certain business activity during the specified period shall be limited in such respects as are specified in the order (including, if the Minister for Finance considers appropriate, by the specification of a requirement, with respect to the restriction of certain business activity, that particular business activity must be affected by the restriction to a specified extent) and an order under this subparagraph shall make such additional modifications to the provisions of section 485 as the Minister for Finance may consider necessary and appropriate in consequence of the foregoing limitation,

(ii) make an order that the day referred to in the definition of ‘specified period’ in section 485(1) as the day on which the period there referred to shall expire shall be such day as is later than 31 March 2021 (but not later than 31 December 2021) as the Minister for Finance considers appropriate and specifies in the order,

(iii) make an order that the percentage specified in section 485(4) (b) (i) shall be such a percentage, that is greater or lower than the percentage specified in that provision, as the Minister for Finance—

(l) considers necessary to—

*(A) fulfil, better, the objectives specified in subsection (1) (a),
or*

(B) facilitate the furtherance of any of the purposes specified in subsection (1) (c),

And

(ii) specifies in the order,

(iv) make an order that the percentage specified in subparagraph (i) (l) or subparagraph (ii)(l) of section 485 (7) (a) shall be such a percentage, that is

greater or lower than the percentage specified in that subparagraph (i)(I) or subparagraph (ii)(I), as the Minister for Finance—

(I) considers necessary to—

(A) fulfil, better, the objectives specified in subsection (1) (a),

or

(B) facilitate the furtherance of any of the purposes specified in subsection (1) (c),

and

(ii) specifies in the order,

(v) make an order that the percentage referred to in subparagraph (i) (II) or subparagraph (ii)(II) of section 485 (7) (a) shall be such a percentage, that is greater or lower than that percentage specified in that subparagraph (i)(II) or subparagraph (ii)(II), as the Minister for Finance—

(I) considers necessary to—

(A) fulfil, better, the objectives specified in subsection (1) (a),

or

(B) facilitate the furtherance of any of the purposes specified in subsection (1) (c),

and

(ii) specifies in the order,

(vi) make an order either that subsection (8) of section 485 shall cease to be in operation on and from such day, or that the election referred to in paragraph (b) of that subsection, which that subsection enables a qualifying person to make, shall not be exercisable save in such circumstances, as the Minister for Finance—

(I) considers necessary to—

(A) fulfil, better, the objectives specified in subsection (1) (a),

or

(B) facilitate the furtherance of any of the purposes specified in subsection (1) (c),

and

(ii) specifies in the order,

and any matter that is provided for in the preceding subparagraphs is referred to in section 485(3) as a 'modification'.

(b) Where an order under subparagraph (i), (ii), (iii), (iv), (v) or (vi) of paragraph (a) is proposed to be made, a draft of the order shall be laid before Dáil Éireann and the order shall not be made unless a resolution approving of the draft has been passed by that House.

Section 485 TCA 1997, "Covid Restrictions Support Scheme" provides:

(1) In this section—

"applicable business restrictions provisions" shall be construed in the manner provided for in the definition of 'Covid restrictions period' in this subsection;

"business activity", in relation to a person carrying on a trade either solely or in partnership, means—

(a) where customers of the trade acquire goods or services from that person from one business premises, the activities of the trade, or

(b) where customers of the trade acquire goods or services from that person from more than one business premises, the activities of the trade relevant to each business premises,

and where customers of the trade acquire goods or services from that person other than through attending at a business premises, that portion of the trade which relates to transactions effected in that manner shall be deemed to relate to the business premises or, where there is more than one business premises, shall be apportioned between such business premises on a just and reasonable basis;

"business premises", in relation to a business activity, means a building or other similar fixed physical structure from which a business activity is ordinarily carried on;

"chargeable period" has the same meaning as in section 321 (2);

"claim period" means a Covid restrictions period, or a Covid restrictions extension period, as the context requires;

"Covid-19" has the same meaning as it has in the Emergency Measures in the Public Interest (Covid-19) Act 2020;

“Covid restrictions” means restrictions provided for in regulations made under sections 5 and 31A of the Health Act 1947, being restrictions for the purpose of preventing, or reducing the risk of, the transmission of Covid-19 and which have the effect of restricting the conduct of certain business activity during the specified period;

“Covid restrictions extension period” has the meaning assigned to it in subsection (2);

“Covid restrictions period”, in relation to a relevant business activity carried on by a person, means a period for which the person is required by provisions of Covid restrictions to prohibit, or significantly restrict, members of the public from having access to the business premises in which the relevant business activity is carried on (referred to in this section as ‘applicable business restrictions provisions’) and is a period which commences on the Covid restrictions period commencement date and ends on the Covid restrictions period end date;

“Covid restrictions period commencement date”, in relation to a relevant business activity, means the later of—

(a) 13 October 2020, or

(b) the day on which applicable business restrictions provisions come into operation (not having been in operation on the day immediately preceding that day);

“Covid restrictions period end date”, in relation to a relevant business activity, means the earlier of—

(a) the day which is three weeks after the Covid restrictions period commencement date,

(b) the day that is specified in the Covid restrictions (being those restrictions in the terms as they stood on the Covid restrictions period commencement date) to be the day on which the applicable business restrictions provisions shall expire,

(c) the day preceding the first day following the Covid restrictions period commencement date, on which the applicable business restrictions cease to be in operation (by reason of the terms in which the Covid restrictions stand being different from how they stood as referred to in paragraph (b)), or

(d) 31 March 2021,

and, for the purposes of paragraph (c)—

(i) the fact (if such is the case) that regulations made under sections 5 and 31A of the Health Act 1947 are revoked and replaced by fresh regulations thereunder (but the applicable business restrictions provisions continue to apply to the relevant business activity) is immaterial, and

(ii) the first reference in that paragraph to the terms in which the Covid restrictions stand is a reference to their terms as provided for in those fresh regulations;

“partnership trade” has the same meaning as in section 1007;

“precedent partner”, in relation to a partnership and a partnership trade, has the same meaning as in section 1007;

relevant business activity” has the meaning assigned to it in subsection (4);

“relevant geographical region” means a geographical location for which Covid restrictions are in operation;

“specified period” means the period commencing on 13 October 2020 and expiring on 31 March 2021;

“tax” means income tax or corporation tax;

“trade” means a trade any profits or gains arising from which is chargeable to tax under Case I of Schedule D.

- (2) (a) Subject to subsection (8), where, in relation to a relevant business activity carried on by a person, applicable business restrictions provisions continue to apply, by reason of regulations made or amended under sections 5 and 31A of the Health Act 1947, to the relevant business activity on the day after the end of a Covid restrictions period, the period for which those restrictions continue to so apply is referred to in this section as a ‘Covid restrictions extension period’, which period commences on the foregoing day (referred to in this section as a ‘Covid restrictions extension period commencement date’) and ends on the Covid restrictions extension period end date.*

(b) In this section, ‘Covid restrictions extension period end date’, in relation to a relevant business activity, means the earlier of—

(i) the day which is three weeks after the Covid restrictions extension period commencement date,

(ii) the day that is specified in the Covid restrictions (being those restrictions in the terms as they stood on the Covid restrictions extension period commencement date) to be the day on which the applicable business restrictions provisions shall expire,

(iii) the day preceding the first day, following the Covid restrictions extension period commencement date, on which the applicable business restrictions provisions cease to be in operation (by reason of the terms in which the Covid restrictions stand being different from how they stood as referred to in subparagraph (ii)), or

(iv) 31 March 2021,

and, for the purposes of subparagraph (iii)—

(i) the fact (if such is the case) that regulations made under sections 5 and 31A of the Health Act 1947 are revoked and replaced by fresh regulations thereunder (but the applicable business restrictions provisions continue to apply to the relevant business activity) is immaterial, and

(ii) the first reference in that subparagraph to the terms in which the Covid restrictions stand is a reference to their terms as provided for in those fresh regulations.

(c) Where, in relation a relevant business activity carried on by a person, applicable business restrictions provisions continue to apply, by reason of regulations made or amended under sections 5 and 31A of the Health Act 1947, to the relevant business activity on the day after the end of a Covid restrictions extension period, the period for which those restrictions continue to so apply is also referred in this subsection as a 'Covid restrictions extension period' which period commences on the foregoing day and ends on the Covid restrictions extension period end date.

(3) The following provisions made in this section, namely:

(a) the reference in the definition of 'Covid restrictions' in subsection (1) to restrictions provided for in regulations made under sections 5 and 31A of the Health Act 1947 that are for the purpose of preventing, or reducing the risk of, the transmission of

Covid-19 and which have the effect of restricting the conduct of certain business activity during the specified period;

(b) the specification of 31 March 2021 in the definition of ‘specified period’ in subsection (1) as the date on which the period there referred to shall expire;

(c) the specification of 25 per cent in subsection (4) (b) (i);

(d) the specification of 10 per cent in subsection (7)(a)(i)(I) or (ii)(I);

(e) the specification of 5 per cent in subsection (7) (a) (i) (II) or (ii) (II);

(f) subsection (8) and the election referred to in paragraph (b) of it which a qualifying person is, by virtue of that subsection, enabled to make,

shall, together with any other provision of this section that the following modification relates to, be construed and operate subject to any modification that is provided for in an order made under section 485(2)(a) and which is in force.

(4) (a) In this section—

“average weekly turnover from the established relevant business activity” means the average weekly turnover of the person, carrying on the activity, in respect of the established relevant business activity for the period commencing on 1 January 2019 and ending on 31 December 2019;

“average weekly turnover from the new relevant business activity”, means the average weekly turnover of the person, carrying on the activity, in respect of the new relevant business activity in the period commencing on the date on which the person commenced the business activity and ending on 12 October 2020;

“established relevant business activity” means, in relation to a person, a relevant business activity commenced by that person before 26 December 2019;

“new relevant business activity” means, in relation to a person, a relevant business activity commenced by that person on or after 26 December 2019 and before 13 October 2020;

“relevant business activity”, in relation to a person, means a business activity which is carried on by that person in a business premises located wholly in a relevant geographical region;

“relevant turnover amount” means—

- (i) *where a person carries on an established relevant business activity, an amount determined by the formula—*

$$A \times B$$

where—

A is the average weekly turnover from the established relevant business activity, and

B is the total number of full weeks in the claim period,

or

- (ii) *where a person carries on a new relevant business activity, an amount determined by the formula—*

$$A \times B$$

where—

A is the average weekly turnover from the new relevant business activity, and

B is the total number of full weeks that comprise the claim period.

- (b) *Subject to subsections (5) and (6), this section shall apply to a person who carries on a relevant business activity and who—*

(i) in accordance with guidelines published by the Revenue Commissioners under subsection (22), demonstrates to the satisfaction of the Revenue Commissioners that, in the claim period, because of applicable business restrictions provisions that prohibit, or significantly restrict, members of the public from having access to the business premises in which the relevant business activity of the person is carried on—

(I) the relevant business activity of the person is temporarily suspended, or

(II) the relevant business activity of the person is disrupted,

such that the turnover of the person in respect of the relevant business activity in the claim period will be an amount that is 25 per cent (or less) of the relevant turnover amount, and

(ii) satisfies the conditions specified in subsection (5),

(hereafter referred to in this section as a 'qualifying person').

(5) The conditions referred to in subsection (4) (b) (ii) are—

(a) the person has logged on to the online system of the Revenue Commissioners (in this section referred to as 'ROS') and applied on ROS to be registered as a person to whom this section applies and as part of that registration provides such particulars as the Revenue Commissioners consider necessary and appropriate for the purposes of registration and which particulars shall include those specified in subsection (14),

(b) for the claim period, the person completes an electronic claim form on ROS containing such particulars as the Revenue Commissioners consider necessary and appropriate for the purposes of determining the claim and which particulars shall include those specified in subsection (14),

(c) for the claim period, the person makes a declaration to the Revenue Commissioners through ROS that the person satisfies the conditions in this section to be regarded as a qualifying person for that claim period,

(d) the person has complied with any obligations that apply to that person in respect of the registration for, and furnishing of returns relating to, value-added tax,

(e) the person is throughout the claim period eligible for a tax clearance certificate, within the meaning of section 1095, to be issued to the person, and

(f) the person would, but for the Covid restrictions, carry on the business activity, that is a relevant business activity, at the business premises in a relevant geographical region, and intends to carry on that activity when applicable business restrictions provisions cease to be in operation in relation to that relevant business activity.

(6) Where a relevant business activity of a qualifying person does not constitute a whole trade carried on by that person, then, for the purposes of determining whether the requirements in subsection (4)(b) (i) are met, the relevant business activity shall be treated as if it were a separate trade and the turnover of the whole trade shall be apportioned between the separate trade and the other part of the trade on a just and reasonable basis, and the amount of turnover attributed to the separate trade during the claim period shall not be less than the amount that would be attributed to the separate trade if it were carried on by a distinct and separate person engaged in that relevant business activity.

(7) *Subject to subsections (10) and (11), on making a claim under this section, a qualifying person shall, in respect of each full week comprised within the claim period, be entitled to an amount equal to the lower of—*

(a) *(i) where the qualifying person carries on an established relevant business activity, an amount equal to the sum of—*

(I) 10 per cent of so much of the average weekly turnover from the established relevant business activity as does not exceed €20,000, and

(II) 5 per cent of any amount of the average weekly turnover from the established relevant business activity as exceeds €20,000,

Or

(iii) where the qualifying person carries on a new relevant business activity, an amount equal to the sum of—

(I) 10 per cent of so much of the person's average weekly turnover from the new relevant business activity as does not exceed €20,000, and

(II) 5 per cent of any amount of the person's average weekly turnover from the new relevant business activity as exceeds €20,000,

and

(b) €5,000 per week,

and any amount payable under this section is referred to in this section as an 'advance credit for trading expenses'.

(8) (a) *Where, in relation to a relevant business activity carried on by a person—*

(i) applicable business restrictions provisions were in operation such that a qualifying person made a claim under this section in respect of a claim period and that claim, taken together with any claims made by the person immediately preceding that claim, is in respect of a continuous period of not less than three weeks, and

(ii) those applicable business restrictions provisions cease to be in operation, then, where that qualifying person, within a reasonable period of time from the date on which the applicable business restrictions provisions cease to be in operation, resumes or continues, as the case may be, supplying goods or services to customers from the business premises in which the qualifying

person's relevant business activity is carried on, that qualifying person may make an election under paragraph (b).

(b) Where no part of the week immediately following the date on which the applicable business restrictions provisions ceased to be in operation in respect of a relevant business activity would otherwise form part of a Covid restrictions period or a Covid restrictions extension period, a qualifying person to whom paragraph (a) applies may elect to treat that week as a Covid restrictions extension period and may make a claim under this section in respect of that period.

(9) A claim made under this section in respect of an advance credit for trading expenses shall be made—

(a) subject to paragraph (b), no later than—

(i) eight weeks from the date on which the claim period, to which the claim relates, commences, or

(ii) if the date on which the qualifying person is registered as a person to whom this section applies (following an application which is made in accordance with subsection (5) (a) and within the period of eight weeks specified in subparagraph (i)) falls on a date subsequent to the expiry of the period of eight weeks so specified, three weeks from the date on which the person is so registered,

and

(b) in the case of a claim made under this section that is referred to in subsection (8), no later than eight weeks from the date on which the applicable business restrictions provisions concerned cease to be in operation.

(10) Where, for any week comprised within a claim period, a person is a qualifying person in relation to more than one relevant business activity carried on from the same business premises, and a claim is made in relation to each relevant business activity, the amount the qualifying person shall be entitled to claim under this section in respect of all of those relevant business activities for any weekly period shall not exceed the amount specified in subsection (7)(b) and subsection (7) shall apply with any necessary modifications to give effect to this subsection.

(11) (a) Where a relevant business activity in respect of which a person is a qualifying person is carried on as the whole or part of a partnership trade, then any claim made under this section for an advance credit for trading expenses in respect of the

relevant business activity shall be made by the precedent partner on behalf of the partnership and each of the partners in that partnership and the maximum amount of any such claim made in respect of the relevant business activity in any weekly period shall not exceed the lower of the amounts specified in subsection (7)(a)(i) or (a)(ii), as the case may be.

(b) Where a claim is made under this section by a precedent partner for an advance credit for trading expenses in respect of a relevant business activity carried on as the whole or part of a partnership trade then—

(i) for the purposes of subsections (15) and (16), each partner shall be deemed to have claimed, in respect of that partner's several trade, a portion of the advance credit for trading expenses calculated as—

A x B

where—

*A is the advance credit for trading expenses claimed by the precedent partner,
and*

B is the partnership percentage at the commencement of the claim period,

(ii) the precedent partner shall, in respect of each such claim, provide a statement to each partner in the partnership containing the following particulars—

(I) the partnership name and its business address,

(II) the amount of advance credit for trading expenses claimed by the precedent partner on behalf of the partnership and each partner,

(III) the profit percentage for each partner,

(IV) the portion of the advance credit for trading expenses allocated to each partner,

(V) the commencement and cessation date of the claim period, and

(VI) the chargeable period of the partnership trade in which the claim period commences,

(iii) for the purposes of subsections (17) and (18), references to a person making a claim shall be taken as references to the precedent partner making the claim on behalf of the partnership and each of its partners, and

(iv) for the purposes of subsection (19), section 1077E shall apply as if references to a person were references to each partner and the references to a claim were a reference to a claim deemed to have been made by each partner under subparagraph (i).

(12) Any reference to ‘turnover’ in this section means any amount recognised as turnover in a particular period of time in accordance with the correct rules of commercial accounting, except for any amount recognised as turnover in that particular period of time due to a change in accounting policy.

(13) Where a person makes a claim for an advance credit for trading expenses under this section, in computing the amount of the profits or gains of the trade, to which the relevant business activity relates, for the chargeable period in which the claim period commences, the amount of any disbursement or expense which is allowable as a deduction, having regard to section 81, shall be reduced by the amount of the advance credit for trading expenses and the advance credit for trading expenses shall not otherwise be taken into account in computing the amount of the profits or gains of the trade for that chargeable period.

(14) (a) The particulars referred to in paragraphs (a) and (b) of subsection (5) are those particulars the Revenue Commissioners consider necessary and appropriate for the purposes of determining a claim made under this section, including—

(i) in relation to a qualifying person—

(I) name,

(II) address, including Eircode, and

(III) tax registration number,

and

(ii) in relation to a relevant business activity—

(I) name under which the business activity is carried on,

(II) a description of the business activity,

(III) address, including Eircode, of the business premises where the business activity is carried on,

(IV) where the business activity was commenced prior to 26 December 2019, the average weekly turnover of the qualifying person in respect of the

business activity in the period commencing on 1 January 2019 and ending on 31 December 2019,

(V) where a trade is carried on in more than one business premises, the turnover of the qualifying person in respect of the business premises, to which the relevant business activity relates, in the period commencing on 1 January 2019 and ending on 31 December 2019,

(VI) where a business activity is a new relevant business activity, the date of commencement of the activity and the amount of turnover in respect of the new business activity beginning on the date of commencement and ending on 12 October 2020,

(VII) the average weekly turnover in respect of an established relevant business activity or a new relevant business activity, as the case may be,

(VIII) in respect of tax, within the meaning of section 2 of the Value-Added Tax Consolidation Act 2010, for the taxable periods comprised within the period of time referred to in clauses (IV) and (VI) the amount of tax that became due in accordance with section 76 (1) (a) (i) of the Value-Added Tax Consolidation Act 2010,

(IX) such other total income excluding the relevant business turnover in respect of the total tax returned in respect of section 76 (1) (a) (i) of the Value-Added Tax Consolidation Act 2010, for the taxable periods comprised within the period of time referred to in clause (IV) or (VI),

(X) expected percentage reduction in turnover of the qualifying person in respect of the business activity in the claim period, and

(XI) such other particulars, as the Revenue Commissioners may require.

(b) Subsequent to receiving the information requested under this section, the Revenue Commissioners may seek further particulars or evidence for the purposes of determining the claim.

- (15) Where a company makes a claim under this section in respect of a claim period and it subsequently transpires that the claim was not one permitted by this section to be made, and the company has not repaid the amount as required by subsection (17)(a)(II)—*

(a) the company shall be charged to tax under Case IV of Schedule D for the chargeable period in which the claim period commences, on an amount equal to 4 times so much of the amount under this section as was not so permitted to be made, and

(b) an amount chargeable to tax under this subsection shall be treated as income against which no loss, deficit, credit, expense or allowance may be set off, and shall not form part of the income of a company for the purposes of calculating a surcharge under section 440.

(16) (a) Where an individual makes a claim under this section in respect of a claim period and it subsequently transpires that the claim was not one permitted by this section to be made, and the individual has not repaid the amount as required by subsection (17)(a)(II), the individual shall be deemed to have received an amount of income equal to 5 times so much of the amount under this section as was not so permitted to be made (referred to in this subsection as the 'unauthorised amount').

(b) The unauthorised amount shall, notwithstanding any other provision of the Tax Acts, be deemed to be an amount of income, arising on the first day of the claim period that is chargeable to income tax under Case IV of Schedule D.

(c) Where the taxable income of an individual includes an amount pursuant to paragraph (b), the part of the taxable income equal to that amount shall be chargeable to income tax at the standard rate in force at the time of the payment of the advance credit for trading expenses but shall not—

(i) form part of the reckonable earnings chargeable to an amount of Pay Related Social Insurance Contributions under the Social Welfare Acts, and

(ii) be an amount on which a levy or charge is required, by or under Part 18D.

(d) Notwithstanding section 458 or any other provision of the Tax Acts, in calculating the tax payable (within the meaning of Part 41A) on the unauthorised amount under this subsection, there shall be allowed no deduction, relief, tax credit or reduction in tax.

(e) In applying section 188 or Chapter 2A of Part 15, no account shall be taken of any income deemed to arise under this subsection or any income tax payable on that income.

(17) (a) *Where subsequent to a person making a claim under this section, it transpires that -*

(i) the requirements in subsection (4) (b) are not met (and a claim in respect of which those requirements are not met is referred to hereafter in this subsection as an 'invalid claim'), or

(ii) the amount claimed exceeds the amount the person is entitled to claim under this section (and a claim to which this subparagraph applies is referred to hereafter in this subsection as an 'overclaim'),

then the person shall, without unreasonable delay—

(I) notify the Revenue Commissioners of the invalid claim or overclaim, as the case may be, and

(II) repay to the Revenue Commissioners—

(A) in respect of an invalid claim, the amount paid in respect of that claim,

(B) in respect of an overclaim, the amount by which the amount paid in respect of that claim exceeds the amount the person is entitled to claim

(hereafter referred to in this section as the 'excess amount').

(b) Where a person makes a claim under this section in respect of a claim period and it subsequently transpires that the claim is an invalid claim or an overclaim, as the case may be—

(i) then, subject to subparagraph (ii), the amount of the advance credit for trading expenses paid by the Revenue Commissioners in respect of the invalid claim, or the amount of the advance credit for trading expenses overpaid by the Revenue Commissioners in respect of an overclaim, as the case may be, shall carry interest as determined in accordance with section 1080 (2) (c) as if a reference to the date when the tax became due and payable were a reference to the date the amount was paid by the Revenue Commissioners, and

(ii) where the invalid claim or overclaim, as the case may be, was made neither deliberately nor carelessly (within the meaning of section 1077E) and the person complies with the requirements of paragraph (a)(II), the amount repaid to the Revenue Commissioners in respect of the invalid claim or overclaim, as the case may be, shall carry interest as determined in accordance with section 1080(2)(c)

as if a reference to the date when the tax became due and payable were a reference to the date paragraph (a) is complied with.

(c) Paragraph (b) shall apply to tax payable on unauthorised amounts under subsections (15) and (16) as it applies to overpayments arising on invalid or overclaims.

(18) (a) For the purposes of this subsection, 'claim' and 'overpayment' shall have the same meanings respectively as they have in subsection (1) of section 960H.

(b) In this subsection, a claim period is a 'reduced claim period' where—

(i) in the case of a claim period which is a Covid restrictions period, the claim period ends on a date as provided for (in relation to that Covid restrictions period) by paragraph (c) of the definition of 'Covid restrictions period end date' in subsection (1), and such date precedes the date that had been specified in the Covid restrictions (being those restrictions in the terms as they stood on the Covid restrictions period commencement date) to be the date on which the applicable business restrictions provisions shall expire, and

(ii) in the case of a claim period which is a Covid restrictions extension period, the claim period ends on a date as provided for (in relation to that Covid restrictions extension period) by subsection (2) (b)(iii), and such date precedes the date that had been specified in the Covid restrictions (being those restrictions in the terms as they stood on the Covid restrictions extension period commencement date) to be the date on which the applicable business restrictions provisions shall expire.

(c) Where a qualifying person makes an overclaim in respect of a reduced claim period, the Revenue Commissioners shall be entitled to recover the excess amount from the person in accordance with paragraph (d) where the following conditions are met:

(i) the claim is made before the end of the claim period; and

(ii) the claim is an overclaim solely by reason of the fact that the claim period is a reduced claim period.

(d) The Revenue Commissioners shall be entitled to recover the excess amount referred to in paragraph (c) by—

(i) setting the amount of an advance credit for trading expenses that the person is entitled to be paid in accordance with subsection (7) or (8) against the excess amount, or

(ii) where, after the end of the specified period, a repayment is due to the person in respect of a claim or overpayment, setting the amount of the repayment against the excess amount.

(e) Where the conditions referred to in paragraph (c) are met and the excess amount is recovered by the Revenue Commissioners in accordance with paragraph (d) within a reasonable period of time from the end of the specified period, the excess amount shall not be an unauthorised amount under subsection (15) or (16), as the case may be.

(f) Where the conditions referred to in paragraph (c) are met, the excess amount shall carry interest as determined in accordance with section 1080 (2) (c) as if the reference to the date when the tax became due and payable were a reference to the day after the day on which the specified period ends.

(19) Any claim made under this section shall be deemed for the purposes of section 1077E to be a claim in connection with a credit and, for the purposes of determining an amount in accordance with section 1077E (11) or 1077E (12), a reference to an amount of tax that would have been payable for the relevant periods by the person concerned shall be read as if it were a reference to a claim in respect of a claim period made in connection with subsection (7).

(20) A person shall, without prejudice to any other penalty to which the person may be liable, be guilty of an offence under this section if the person—

(a) knowingly or wilfully delivers any incorrect return or statement, or knowingly or wilfully furnishes any incorrect information, in connection with the operation of this section or the eligibility for the advance credit for trading expenses in relation to any person, or

(b) knowingly aids, abets, assists, incites or induces another person to make or deliver knowingly or wilfully any incorrect return or statement, or knowingly or wilfully furnish any incorrect information in connection with the operation of this section or the eligibility for the advance credit for trading expenses in relation to any person,
and

the provisions of subsections (3) to (10) of section 1078, and section 1079, shall, with any necessary modifications, apply for the purposes of this subsection as they apply for the purposes of offences in relation to tax within the meaning of section 1078.

(21) The administration of this section shall be under the care and management of the Revenue Commissioners and section 849 shall apply for this purpose with any necessary modifications as it applies in relation to tax within the meaning of that section.

(22) The Revenue Commissioners shall prepare and publish guidelines with respect to matters that are considered by them to be matters to which regard shall be had in determining whether—

(a) there are provisions of Covid restrictions that prohibit, or significantly restrict, members of the public from having access to the business premises in which the relevant business activity of a person is carried on in a Covid restrictions period, or Covid restrictions extension period, as the case may be, and

(b) as a result of the provisions referred to in paragraph (a), the turnover of the person in respect of the relevant business activity in the Covid restrictions period, or Covid restrictions extension period, as the case may be, will not exceed an amount that is 25 per cent (or less) of the relevant turnover amount.

(23) Notwithstanding any obligations imposed on the Revenue Commissioners under section 851A or any other enactment in relation to the confidentiality of taxpayer information (within the meaning of that section), the details referred to in clauses (I) and (III) of subsection (14) (a) (ii) shall, for all persons to whom an advance credit for trading expenses has been paid by the Revenue Commissioners under this section, be published on the website of the Revenue Commissioners.

(24) (a) Where a Revenue officer determines that a person is not a qualifying person within the meaning of subsection (4) (b), the Revenue officer shall notify the person in writing accordingly.

(b) A person aggrieved by a determination under paragraph (a), may appeal the determination to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date on the notice of the determination.

(c) Where the Appeal Commissioners determine that a person is a qualifying person within the meaning of subsection (4)(b), the 8 week period specified in subsection

(9), shall commence in respect of such a person on the date that determination is issued.

(d) The reference to the Tax Acts in paragraph (a) of the definition of 'Acts' in section 949A shall be read as including a reference to this section.

Appendix 2 - Statutory Instrument No. 701 of 2020



STATUTORY INSTRUMENTS.

S.I. No. 701 of 2020



HEALTH ACT 1947 (SECTION 31A - TEMPORARY RESTRICTIONS)
(COVID-19) (NO. 10) REGULATIONS 2020

S.I. No. 701 of 2020

HEALTH ACT 1947 (SECTION 31A - TEMPORARY RESTRICTIONS)
(COVID-19) (NO. 10) REGULATIONS 2020

I, STEPHEN DONNELLY, Minister for Health, in exercise of the powers conferred on me by sections 5 and 31A (inserted by section 10 of the Health (Preservation and Protection and other Emergency Measures in the Public Interest) Act 2020 (No. 1 of 2020)) of the Health Act 1947 (No. 28 of 1947) and -

- (a) having regard to the immediate, exceptional and manifest risk posed to human life and public health by the spread of Covid-19 and to the matters specified in subsection (2) of section 31A, and
- (b) having consulted with the Minister for Transport, the Minister for Enterprise, Trade and Employment, the Minister for Finance, the Minister for Justice and the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media,

hereby make the following regulations:

PART 1
Preliminary and General

Citation, commencement and operation

1. (1) These Regulations may be cited as the Health Act 1947 (Section 31A - Temporary Restrictions) (Covid-19) (No. 10) Regulations 2020.

(2) These Regulations shall come into operation on the 31st day of December 2020 and shall have effect for the period beginning on that date and ending on the 31st day of January 2021.

Revocation

2. The Health Act 1947 (Section 31A - Temporary Restrictions) (Covid-19) (No. 9) Regulations 2020 (S.I. No. 560 of 2020) are revoked.

Interpretation

3 In these Regulations -

“Act of 1947” means the Health Act 1947 (No. 28 of 1947);

“applicable person” means a person whose place of residence is located within a relevant geographical location;

“child” means a person who has not attained the age of 18 years;

“club” means a club registered under the Registration of Clubs Acts 1904 to 2008;

“essential retail outlet” means a retail outlet that is specified in Part 1A of the Schedule;

“essential service” means a service specified in Part 2 of the Schedule;

“household” means a person who lives alone or 2 or more persons who live together;

“licence”, in relation to premises, means a licence for the sale by retail of intoxicating liquor for consumption on or off the premises whether granted on

production or without production of a certificate of the Circuit Court or District Court;

“necessary person” means, in relation to a sporting event, any person whose presence at the event is necessary for the event to take place, and includes -

- (a) a person referred to in Regulation 10(2)(b) who is participating in the sporting event,
- (b) a member of staff of Sport Ireland or a member of staff of the relevant sporting body of an athlete or competitor participating in the event,
- (c) a coach or a trainer connected to the event,
- (d) medical personnel, including such personnel conducting doping testing, whose presence is required at the event,
- (e) a person who attends the event in order to ensure that it is conducted in accordance with the rules of the sport,
- (f) a person engaged by the organiser of the sporting event as a steward, whether in a remunerated or voluntary capacity, to implement crowd control, compliance with public health guidance and other safety measures,
- (g) a person whose attendance at the event is necessary for it to be reported, recorded or broadcast,
- (h) a person who is a parent or guardian of a person who -
 - (i) is participating in the event, and
 - (ii) is a child,
- (i) a person accompanying a person who is participating in the event, where that person normally requires assistance in carrying out his or her daily activities, or
- (j) a person providing necessary technical, administrative, logistical or other professional services to a person described in any of subparagraphs (a) to (i);

“paired household” has the meaning assigned to it in Regulation 6;

“place of residence” means -

- (a) in relation to a person who is ordinarily resident in the State -
 - (i) the home in which the person ordinarily resides, or
 - (ii) if the person does not have a home, such other premises, if any, at which he or she is currently residing, whether on a permanent or temporary basis, or
- (b) in relation to a person who is not ordinarily resident in the State, the premises in the State, if any, at which he or she is currently residing, whether on a permanent or temporary basis;

“premises” includes part of any premises;

“premises controller” means -

- (a) in relation to premises the subject of a licence, the holder of the licence, and
- (b) in relation to the premises of a club, every person whose name is entered in the register of clubs as an official or member of its committee of management or governing body at the material time;

“relevant event” means an event held, or to be held, for social, recreational, exercise, cultural, entertainment or community reasons, but does not include -

- (a) an event to be held in a dwelling,
- (b) a wedding reception,
- (c) a sporting event, or
- (d) a training event;

“relevant geographical location” means a geographical location to which an affected areas order applies;

“relevant household” means a household consisting of -

- (a) a person, including a vulnerable person, who lives alone,
- (b) one or more vulnerable persons who live together, or
- (c) one or more vulnerable persons and one other person (other than a vulnerable person) all of whom live together;

“specified person”, in relation to any premises, means -

- (a) the premises controller of the premises,
- (b) the occupier of the premises,
- (c) the manager of the premises, or
- (d) any other person for the time being in charge of the premises;

“sporting event” means an event to be held in a location other than in a dwelling that is -

- (a) to be held wholly or partly for competitive sport reasons, regardless of the nature of the sport or the competitive standard in question,
- (b) organised under the structure of, licenced by, or otherwise authorised by -
 - (i) a national governing body of the sport in question, or
 - (ii) a school, university or higher education institution, and

- (c) not a training event;

“substantial meal” means a meal -

- (a) such as might be expected to be served as a main midday or main evening meal or as a main course at either such meal, and
- (b) that is of a kind, having regard to all the circumstances, for which it would be reasonable to charge a sum that is not less than €9;

“training event” means an event -

- (a) to be held in preparation for a sporting event, and
- (b) that is supervised by a member of staff of Sport Ireland, a coach or a trainer;

“vulnerable person” means -

- (a) a person who normally requires assistance in carrying out his or her daily activities,
 - (b) a person who, although not normally requiring assistance in carrying out his or her daily activities, requires such assistance because he or she is -
 - (i) particularly susceptible to the risk posed to health by Covid-19, or
 - (ii) not in a position to leave his or her place of residence due to reasons related to the spread of Covid-19 or otherwise,
- or
- (c) a child.

Part 2

Temporary restrictions – national measures

Restrictions of movement of relevant persons in relation to travel from place of residence

4. (1) Subject to paragraph (2), an applicable person shall not leave his or her place of residence without reasonable excuse.

(2) Without prejudice to the generality of what constitutes a reasonable excuse for the purposes of paragraph (1), such reasonable excuse includes an applicable person leaving his or her place of residence in order to -

- (a) work, comply with a contract of employment or contract for services, or otherwise engage in work or employment where -
 - (i) such work, compliance, or engagement relates to an essential retail outlet or an essential service, and
 - (ii) in all the circumstances, it is not practicable to so work, comply or engage in the person’s place of residence,

- (b) without prejudice to the generality of subparagraph (a) -
 - (i) provide services to, or perform the functions of, an office holder appointed under any enactment or under the Constitution, or a member of either House of the Oireachtas, the European Parliament or a local authority, or
 - (ii) provide services essential to the functioning of diplomatic missions and consular posts in the State,
- (c) farm, carry out agricultural activities, or assist in farming or carrying out agricultural activities,
- (d) attend, for educational reasons -
 - (i) a primary or secondary school, or
 - (ii) a university, higher education institution or other education and training facility,

to the extent that it is necessary for such educational reasons to attend in person,

- (e) accompany to a school referred to in subparagraph (d)(i), or to a university, higher education institution or other education and training facility referred to in subparagraph (d)(ii), any other person residing with the person, or a vulnerable person,
- (f) access crèche or other childcare facilities,
- (g) attend a medical or dental appointment, or accompany, to such an appointment, any other person residing with the person, or a vulnerable person,
- (h) seek essential medical, health or dental assistance for the person, for any other person residing with the person, or for a vulnerable person,
- (i) donate blood or accompany any other person residing with the person to donate blood,
- (j) seek veterinary assistance,
- (k) attend to vital family matters (including providing care to vulnerable persons),
- (l) attend a funeral or a wedding,
- (m) fulfil a legal obligation (including attending court, satisfying bail conditions, or participating in ongoing legal proceedings), attend a court office where required, initiate emergency legal proceedings or execute essential legal documents,
- (n) if the person is a parent or guardian of a child, or a person having a right of access to a child, give effect to arrangements for access to the child by -
 - (i) the person, or
 - (ii) another person who is -

- (I) a parent or guardian of the child, or
 - (II) a person having a right of access to the child,
- (o) in the case of a minister of religion or priest (or any equivalent thereof in any religion) -
 - (i) lead worship or services remotely through the use of information and communications technology,
 - (ii) minister to the sick, or
 - (iii) conduct funeral or wedding services,
 - (p) move to another residence where, in all the circumstances of the case, such movement is reasonably necessary,
 - (q) return to the person's place of residence,
 - (r) where the person is not ordinarily resident in the State, leave the State,
 - (s) provide emergency assistance, avoid injury or illness, or escape a risk of harm, whether to the person or to another person,
 - (t) go to an essential retail outlet for the purpose of obtaining items (including food, beverages, fuel, medicinal products, medical devices or appliances, other medical or health supplies or products, essential items for the health and welfare of animals, or supplies for the essential upkeep and functioning of the person's place of residence), or accessing services provided in the outlet, for the applicable person or any other person residing in the person's place of residence,
 - (u) go to an essential retail outlet for the purpose of obtaining items (including food, beverages, fuel, medicinal products, medical devices or appliances, other medical or health supplies or products, essential items for the health and welfare of animals, or supplies for the essential upkeep and functioning of the place of residence of a vulnerable person), or accessing services provided in the outlet, for a vulnerable person,
 - (v) access an essential service, or assist any other person residing in the person's place of residence, or a vulnerable person, to access an essential service, where the access is immediately required and the person, other person residing in the person's place of residence or vulnerable person, as the case may be, cannot access the service concerned from the place of residence,
 - (w) in the case of a person who is part of a paired household, travel to an event in a dwelling in accordance with Regulation 5,
 - (x) exercise -
 - (i) alone,
 - (ii) with other persons residing in the relevant residence,
 - (iii) with persons from one other place of residence, or

(iv) with persons residing in the relevant household and persons from one other place of residence, within a 5 kilometre radius of the person's place of residence,

(y) attend -

(i) a retail outlet specified in paragraph 1 of Part 1B of the Schedule, during the period specified in that paragraph, for the purpose of -

(I) obtaining items provided in the outlet, or

(II) working in the outlet, or

(ii) an indoor leisure facility, including a dance studio, gym or swimming pool, specified in paragraph 2 of Part 1B of the Schedule, during the period specified in that paragraph insofar as they provide facilities for use by persons taking exercise on an individual basis, or

(z) attend the offices of a planning authority or An Bord Pleanála to engage in a statutory planning process (including making or inspecting a planning application or appeal, making an observation or submission or participating in a Development Plan process) or inspect a site notice (within the meaning of the Planning and Development Act 2000 (No. 30 of 2000)).

(3) Paragraph (1) is a penal provision for the purposes of section 31A of the Act of 1947.

Restrictions on events in dwellings

5. (1) A person shall not organise, or cause to be organised, an event to be held in a dwelling in a relevant geographical location for social or recreational reasons other than in accordance with paragraph (2).

(2) An applicable person may organise, or cause to be organised, an event to be held in a dwelling in a relevant geographical location for social or recreational reasons where -

(a) the dwelling is the applicable person's place of residence, and

(b) the person takes all reasonable steps to ensure that the persons attending, or proposed to attend the event (for whatever reason)

-

(i) are part of the same household as the person organising the event, or

(ii) are part of a paired household in respect of the person organising the event.

(3) Where an event under paragraph (2) is attended by -

(a) a child, and

(b) a parent or guardian of such child, who is not part of the same household as the child,

the parent or guardian, as the case may be, shall be deemed to be part of the same household as the child.

(4) Paragraph (1) is a penal provision for the purposes of section 31A of the Act of 1947.

Paired households

6. (1) Subject to paragraph (2), a relevant household may agree with one other household (including another relevant household) that each household may be treated as a paired household for the purpose of attending events in a dwelling in accordance with Regulation 5, and each of those households shall, in these Regulations, be referred to as a “paired household”.

(2) Where a relevant household makes an agreement with another household in accordance with paragraph (1) -

- (a) neither such household may already be a paired household, and
- (b) neither such household may subsequently agree to be a paired household with any other household.

Restriction on persons attending events in dwellings

7. (1) Subject to paragraph (2), a person shall not without reasonable excuse attend an event to be held for social or recreational reasons in a dwelling in a relevant geographical location other than where the event is organised in accordance with Regulation 5(2).

(2) Paragraph (1) shall not apply to a person attending an event referred to in that paragraph where the person is -

- (a) part of the same household as the person organising the event, or
- (b) part of a paired household in respect of the person organising the event.

(3) Paragraph (1) is a penal provision for the purposes of section 31A of the Act of 1947.

Restrictions on relevant events and funerals

8. (1) A person shall not organise, or cause to be organised, a relevant event in a relevant geographical location other than to exercise outdoors –

- (a) alone,
- (b) with other persons residing in the person’s relevant residence,
- (c) with persons from one other place of residence, or
- (d) with persons residing in the relevant household and persons from one other place of residence,

within a 5 kilometre radius of the person’s place of residence.

(2) A person shall not organise, or cause to be organised, a funeral to be held in a relevant geographical location other than where the number of people, excluding a minister of religion or priest (or any equivalent thereof in any religion), attending the funeral does not exceed 10.

(3) Paragraph (1) is a penal provision for the purposes of section 31A of the Act of 1947.

(4) For the purposes of this Regulation, in reckoning the number of persons attending a relevant event, no account shall be taken of persons so attending in a professional capacity, in the course of their employment, or in fulfilment of a contract for services.

Wedding Receptions

9. (1) A person shall not organise, or cause to be organised, a wedding reception in a relevant geographical location other than in accordance with paragraph (2).

(2) A person may organise, or cause to be organised, a wedding reception in a relevant geographical location in a premises other than a dwelling where the person takes all reasonable steps to ensure that the maximum number of persons attending, or proposed to attend, the wedding reception –

- (a) for the period beginning on the 31st day of December 2020 and ending on the 2nd day of January 2021, does not exceed 25 persons, or
- (b) for the period beginning on the 3rd day of January 2021, does not exceed 6 persons.

(3) For the purposes of this Regulation, in reckoning the number of persons attending a wedding reception, no account shall be taken of -

- (a) the persons getting married, or
- (b) persons so attending in a professional capacity, in the course of their employment, or in fulfilment of a contract for services.

Restrictions on sporting events

10. (1) Subject to paragraph (2), a person shall not organise, or cause to be organised, a sporting event in a relevant geographical location.

(2) A person may organise, or cause to be organised, a sporting event in a relevant geographical location where the person takes all reasonable steps to ensure that -

- (a) the event is attended, or proposed to be attended, only by necessary persons, and
- (b) every person participating in the event -
 - (i) is in receipt of financial support provided by Sport Ireland under the scheme commonly known and referred to as the Sport Ireland International Carding Scheme,

- (ii) competes at a senior level and is a participant in a high performance training programme of the national governing body of the sport, which body receives, from Sport Ireland, financial support commonly known and referred to as the Sport Ireland High Performance Programme Funding,
- (iii) is a professional sportsperson who receives payment for training and playing sport under a contract of employment with a soccer club or the rugby football organisation commonly known and referred to as the Irish Rugby Football Union,
- (iv) is involved in the training and preparation of racehorses for events held under the authority of Horse Racing Ireland,
- (v) is involved in the training and preparation of sport horses for events held under the authority of Horse Sport Ireland, or
- (vi) is involved in the training and preparation of greyhounds for events held under the authority of Rásaíocht Con Éireann.

Restrictions on training events

11. (1) A person shall not organise, or cause to be organised, a training event in a relevant geographical location other than in accordance with paragraph (2).

(2) Paragraph (1) shall not apply to a training event in which every person participating in the event -

- (a) is in receipt of financial support provided by Sport Ireland under the scheme commonly known and referred to as the Sport Ireland International Carding Scheme,
- (b) competes at a senior level and is a participant in a high performance training programme of the national governing body of the sport, which body receives, from Sport Ireland, financial support commonly known and referred to as the Sport Ireland High Performance Programme Funding,
- (c) is a professional sportsperson who receives payment for training and playing sport under a contract of employment with a soccer club or the rugby football organisation commonly known and referred to as the Irish Rugby Football Union,
- (d) is involved in the training and preparation of racehorses for events held under the authority of Horse Racing Ireland,
- (e) is involved in the training and preparation of greyhounds for events held under the authority of Rásaíocht Con Éireann,

- (f) is involved in the training and preparation of sport horses for events held under the authority of Horse Sport Ireland, or
- (g) is a coach or trainer in respect of a person referred to in any of subparagraphs (a) to (f).

Carrying on or provision of certain businesses or services

12. (1) A specified person shall ensure that members of the public and workers are not permitted, or otherwise granted, access to a premises -

- (a) in or at which a business or service is carried out, and
- (b) that is in a relevant geographical location,

other than in accordance with paragraph (2).

(2) A specified person may permit, or otherwise grant, access to a premises in a relevant geographical location to -

- (a) a worker -
 - (i) where access to the premises by the worker is necessary for the provision of an essential service or the operation of an essential retail outlet, or
 - (ii) where access to the premises by the worker is necessary for the operation of a retail outlet specified in paragraph 1 of Part 1B of the Schedule, during the period specified in that paragraph, or
 - (iii) where access to the premises by the worker is necessary for the operation of an indoor leisure facility, including a dance studio, gym or swimming pool, specified in paragraph 2 of Part 1B of the Schedule during the period specified in that paragraph, insofar as they provide facilities for use by persons taking exercise on an individual basis, or
- (b) members of the public -
 - (i) where the premises is an essential retail outlet, provided that such access is granted, or otherwise permitted, only to such part of the premises as is operating solely as an essential retail outlet,
 - (ii) where the premises is used to provide an essential service, provided that such access is granted, or otherwise permitted, only to such part of the premises as is operating solely to provide the essential service,
 - (iii) where the premises is a retail outlet specified in paragraph 1 of Part 1B of the Schedule, during the period specified in that paragraph,
 - (iv) where the premises is an indoor leisure facility, including a dance studio, gym or swimming pool, specified in paragraph 2 of Part 1B of the Schedule, during the period specified in that paragraph, insofar as they provide

facilities for use by persons taking exercise on an individual basis.

- (3) For the avoidance of doubt, paragraph (1) does not prohibit -
- (a) the filming or other recording of performances in a theatre, concert hall, museum or art gallery, without an audience present, for the purposes of broadcasting such performances on the internet, radio or television,
 - (b) the holding of horseracing or greyhound racing at a racecourse in accordance with these Regulations, or
 - (c) the use of a premises for the purposes of -
 - (i) a meeting of a local authority (within the meaning of the Local Government Act 2001 (No. 37 of 2001)),
 - (ii) a meeting of a regional assembly (within the meaning of the Local Government Act 1991 (Regional Assemblies) (Establishment) Order 2014 (S.I. No. 573 of 2014)),
 - (iii) a sitting of one or both Houses of the Oireachtas or a committee thereof (within the meaning of section 2 of the Houses of the Oireachtas (Inquiries, Privileges and Procedures) Act 2013 (No. 33 of 2013)),
 - (iv) a meeting of a political party registered in the Register of Political Parties (within the meaning of Part III of the Electoral Act 1992 (No. 23 of 1992)) or a meeting of a parliamentary party of such political party, or
 - (v) a wedding held in accordance with Regulation 9.

(4) Paragraph (1) is a penal provision for the purposes of section 31A of the Act of 1947.

(5) In this Regulation, “worker” means, in relation to a premises that is a place of work -

- (a) an employee working at the premises,
- (b) a member of staff at the premises, or
- (c) a person providing professional services to or at the premises.

Requirements in relation to hotels and other services

13. (1)(a) Subparagraph (b) applies notwithstanding anything contained in the Licensing Acts 1833 to 2018 or the Registration of Clubs Acts 1904 to 2008.
- (b) Without prejudice to the generality of Regulation 12(1), a specified person shall ensure that –
- (i) members of the public are not, permitted, or otherwise granted, access to relevant premises, or permitted to remain on such premises,

- (ii) relevant guests who are not resident in the relevant premises are not, during the relevant period, permitted, or otherwise granted, access to the relevant premises concerned, or permitted to remain on such premises, other than for the purpose of ordering, or collecting, or both, food or non-alcoholic beverages for consumption off such premises,
 - (iii) relevant guests who are resident in the relevant premises are not, during the relevant period, permitted to order alcoholic beverages, and
 - (iv) relevant guests are not permitted to purchase or otherwise acquire intoxicating liquor for consumption on the relevant premises unless the intoxicating liquor is -
 - (I) ordered by or on behalf of the relevant guest at the same time as a substantial meal is so ordered, during the meal or after the meal has ended, and
 - (II) consumed by that relevant guest during the meal or after the meal has ended whilst such person is seated at a table.
- (c) For the avoidance of doubt, it is hereby declared that the period of 30 minutes referred to in section 7(1) and (2) of the Intoxicating Liquor Act 1962 (No. 21 of 1962), commonly referred to as drinking-up time, does not apply in relation to the relevant period.

(2) A specified person shall, in relation to a relevant premises, make a record of the time and date that each relevant guest is permitted, or otherwise granted, access to the relevant premises, and the guest's name and telephone number and make a record of the substantial meal or meals ordered pursuant to paragraph (1)(b)(iv).

(3) A specified person shall retain and make available records made under paragraph (2) for the purposes of inspection by a member of the Garda Síochána acting in the course of his or her duties under these Regulations, or by a person appointed by the Health Service Executive for the purposes of the programme commonly known as the Covid-19 Contact Management Programme, for a period of 28 days after the records have been made.

(4) For the purposes of paragraph (2), a specified person may request a relevant guest to provide the specified person with the relevant guest's name and telephone number and, where that specified person does so, the relevant guest shall comply with that request.

(5)(a) A specified person shall ensure that members of the public are not, during the specified period -

- (i) permitted, or otherwise granted, access to a specified premises, or
- (ii) permitted to remain on a specified premises,

except for the purpose of ordering, or collecting, or both, food or non-alcoholic beverages for consumption off the specified premises.

(b) In this paragraph -

“specified period”, in relation to specified premises to which, but for this Regulation, access by members of the public may be lawfully permitted, or otherwise granted, on and after 11.30 p.m. on a particular day, means the period -

(a) commencing at 11.30 p.m. on that day, and

(b) ending at -

(i) subject to subparagraph (ii), the later time on that day, or the later time on the next succeeding day, as the case may be, on and after which access by members of the public would no longer be lawful even if this Regulation had never been made, or

(ii) 6.00 a.m. on the next succeeding day in any case where such first-mentioned access would extend beyond that time but for this Regulation;

“specified premises” means a premises in a relevant geographical location where -

(a) food or non-alcoholic beverages may be lawfully sold or supplied for consumption on such premises, or

(b) food or beverages may be lawfully sold or supplied for consumption on such premises but any beverage which is an intoxicating liquor may not be so consumed.

(6) Paragraphs (1), (2) and (3) are penal provisions for the purposes of section 31A of the Act of 1947.

(7) In this Regulation -

“relevant period”, in relation to a relevant premises to which, but for this paragraph, access by relevant guests may be lawfully permitted, or otherwise granted, on and after 11.30 p.m. on a particular day, means the period -

(a) commencing at 11.30 p.m. on that day, and

(b) ending at the later time on that day, or the later time on the next succeeding day, as the case may be, on and after which access by members of the public would no longer be lawful even if this Regulation had never been made;

“relevant guest”, in relation to a hotel or similar accommodation, means a person staying in the hotel or similar accommodation in one or more of the circumstances referred to in subparagraphs (a) to (d) of paragraph 8 of Part 2 of the Schedule;

“relevant premises” means a premises in a relevant geographical location where a business or service of a type specified in subparagraphs (a) to (d) of paragraph 8 of Part 2 of the Schedule that is selling or supplying intoxicating liquor for consumption on the premises to relevant guests and that, but for this Regulation, is otherwise permitted by law to do so, is lawfully carried on or otherwise provided.

Data Protection

14. (1) Personal data collected for the purposes of these Regulations may be processed by -

- (a) a specified person for the purposes of -
 - (i) complying with the requirements of these Regulations, or
 - (ii) providing information to the Health Service Executive for the purposes referred to in paragraph (b),
- (b) the Health Service Executive for the purposes of the identification, tracing and contacting of persons who have been in contact with persons who have been diagnosed, or suspected of having been infected, with Covid-19, and
- (c) a member of the Garda Síochána for the purposes of -
 - (i) monitoring compliance by a specified person with, or
 - (ii) enforcement of,

these Regulations.

(2) For the purposes of these Regulations, a specified person, the Health Service Executive and the Garda Síochána are designated as data controllers in relation to personal data respectively processed by them pursuant to paragraph (1).

(3) Subject to paragraph (4), personal data collected for the purposes of these Regulations shall be permanently deleted no later than 28 days after the records referred to in Regulation 13 have been collected under paragraph (2) of that Regulation.

(4) Where personal data collected in accordance with these Regulations are required for the purposes of the prevention, investigation, detection or prosecution of a criminal offence, the data -

- (a) may be processed for as long as they are required for such prevention, investigation, detection or prosecution, and
- (b) shall be permanently deleted after they are no longer required for such prevention, investigation, detection or prosecution.

(5) In this Regulation -

“General Data Protection Regulation” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016¹ on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation);

“personal data” has the meaning it has in the General Data Protection Regulation;

“processing”, in relation to personal data, has the meaning it has in the General Data Protection Regulation.

¹ OJ No. L 119, 4.5.2016, p. 1.

SCHEDULE

Regulation 3

Part 1A

Essential Retail Outlets

1. Outlets selling food or beverages on a takeaway basis, or newspapers, whether on a retail or wholesale basis and whether in a non-specialised or specialised outlet.
2. Markets that, wholly or principally, offer food for sale.
3. Outlets selling products necessary for the essential upkeep and functioning of places of residence and businesses, whether on a retail or wholesale basis.
4. Pharmacies, chemists and retailers or wholesalers providing pharmaceuticals or pharmaceutical or dispensing services, whether on a retail or wholesale basis.
5. Outlets selling health, medical or orthopaedic goods in a specialised outlet, whether on a retail or wholesale basis.
6. Fuel service stations and heating fuel providers.
7. Outlets selling essential items for the health and welfare of animals (including animal feed and veterinary medicinal products, pet food, animal bedding and animal supplies), whether on a retail or wholesale basis.
8. Laundries and drycleaners.
9. Banks, post offices and credit unions.
10. Outlets selling safety supplies (including work-wear apparel, footwear and personal protective equipment), whether on a retail or wholesale basis.
11. Hardware outlets, builders' merchants and outlets that provide, whether on a retail or wholesale basis -

- (a) hardware products necessary for home and business maintenance or construction and development,
- (b) sanitation and farm equipment, or
- (c) supplies and tools essential for farming or agriculture purposes.

12 Outlets providing for the repair and maintenance of mechanically propelled vehicles or bicycles and any related facilities (including tyre sales and repairs).

13. The following outlets, insofar as they offer services on an emergency basis only:

- (a) Outlets selling office products and services for businesses or for relevant persons working from their respective places of residence, whether on a retail or wholesale basis;
- (b) Outlets providing electrical, information and communications technology and telephone sales, repair and maintenance services for places of residence and businesses.

14. Any other retail outlet that operates an online or other remote system of ordering goods for purposes of collection at the retail outlet.

15. Outlets selling food or beverages whether on a retail or wholesale basis and whether in a non-specialised or specialised outlet -

- (a) insofar as they sell food or beverages on a takeaway basis or for consumption off the premises,
- (b) insofar as they are staff canteens operating for the exclusive use of persons working in, or at, a particular premises, or
- (c) hotels or similar accommodation services referred to in subparagraphs (a) to (d) of paragraph 8 of Part 2, insofar as they sell food or beverages for consumption on the premises in accordance with subparagraphs (a) to (d) of paragraph 8 of that Part.

16. Optician and optometrist outlets.

17. Outlets providing hearing test services or selling hearing aids and appliances.

Part 1B

1. Retail outlets selling goods or products (other than goods or products specified in Part 1A) during the period beginning on the commencement of these Regulations and ending at 6.00 p.m. on the 31st day of December 2020.

2. Indoor leisure facilities, including dance studios, gyms and swimming pools, insofar as they provide facilities for use by persons taking exercise on an individual basis during the period beginning on the commencement of these Regulations and ending at 6.00 p.m. on the 31st day of December 2020.

Part 2
Essential Services

Agriculture, horticulture, forestry, fishing, animal welfare and related services

1. The following services relating to agriculture, horticulture, forestry, fishing, animal welfare and related services:

- (a) farming;
- (b) farm labour;
- (c) farm relief services;
- (d) crop and animal production;
- (e) fishing for commercial purposes;
- (f) aquaculture and fish farming;
- (g) horticulture;
- (h) forestry;
- (i) veterinary, animal welfare and related services;
- (j) marts held online only;
- (k) the provision of support services relating to any of the services specified in subparagraphs (a) to (j) (including artificial insemination and animal disposal).

Manufacturing

2. The following services relating to manufacturing:

- (a) the manufacture, production or processing of food and beverage products;
- (b) the manufacture, production or processing of animal feeds;
- (c) the manufacture of work-wear apparel, personal protective equipment or footwear;
- (d) the manufacture of wood pulp, paper and paperboard;
- (e) the operation of sawmills and the processing of wood and cork;
- (f) the printing and reproduction of newspapers and other media services;
- (g) the distillation of coke and refined petroleum products;
- (h) the refining of alumina;
- (i) the manufacture of chemicals and chemical products;

- (j) the manufacture of pharmaceutical products and preparations;
- (k) the manufacture of products necessary for the supply chain of essential services;
- (l) the manufacture of products necessary for national and international supply chains, other than such supply chains referred to in subparagraph (k);
- (m) the manufacture of computers, electronic and optical products (including semi-conductors);
- (n) the manufacture of electrical equipment, machinery and other equipment (including agricultural and forestry machinery);
- (o) the manufacture of medical devices or appliances;
- (p) the manufacture of medicinal, health, dental and other personal hygiene products, equipment, appliances and supplies.

Supply, repair and installation of machinery and equipment

3. The following services relating to the supply, repair and installation of machinery and equipment:

- (a) the supply, repair and installation of machinery and equipment (including mechanically propelled vehicles, industrial machinery and equipment) for essential services;
- (b) the repair of mechanically propelled vehicles or the repair of bicycles and related facilities.

Electricity, gas, water, sewage and waste management

4. The following services relating to electricity, gas, water, sewage and waste management:

- (a) the generation, transmission, supply and distribution of electric power;
- (b) the extraction and distribution of gas and decommissioning activities in relation to offshore gas field facilities;
- (c) the collection, treatment and supply of water;
- (d) the collection, treatment and disposal of sewage or wastewater;
- (e) the collection of waste, remediation activities and other waste management treatment and disposal activities (including the operation of landfill sites, waste transfer

stations, waste processing centres and recycling facilities or waste recovery).

Construction and development

5. The following services relating to construction and development:
- (a) construction or development work and the provision of support services relating to construction and development work;
 - (b) the repair, maintenance and construction of road, rail and utility infrastructure;
 - (c) the supply and delivery of maintenance and repair services to businesses and places of residence (including electrical, gas, oil, plumbing, glazing and roofing services).

Wholesale and retail trade

6. The following services relating to wholesale and retail trade:
- (a) the operation of essential retail outlets;
 - (b) wholesale and distribution services necessary for ensuring the availability for sale of food, beverages, fuel, medicinal products, medical devices or appliances, other medical or health supplies or products, essential items for the health and welfare of animals, or supplies for the essential upkeep and functioning of a place of residence;
 - (c) the operation of automated teller machines and related services.

Transport, storage and communications

7. The following services relating to transport, storage and communications:
- (a) the provision of land transport, including bus, rail and taxi services;
 - (b) road, rail, sea and air freight;
 - (c) the provision of sea and air passenger services;
 - (d) the operation of ports, harbours and airports;
 - (e) the operation of lighthouses;
 - (f) warehousing and support activities (including cargo-handling, postal and courier activities) for the transportation of goods;
 - (g) the control and critical maintenance of the transport infrastructure network (including roads);

- (h) any service required for the safe provision of a service specified in subparagraphs (a) to (g).

Accommodation and food services

8. The following services relating to accommodation and food services provision:

- (a) hotel or similar accommodation services to persons who are guests of those hotels or similar accommodation on the 26th day of December 2020 until the date of their departure;
- (b) hotel or similar accommodation services to guests travelling for purposes other than social, recreational, cultural or tourist purposes;
- (c) the operation of hotels or similar accommodation services providing essential accommodation (including accommodation for homeless persons and persons in direct provision, persons who are unable to reside in their usual place of residence due to reasons related to the spread of Covid-19 or otherwise) and related services;
- (d) hotel or similar accommodation services to guests attending a wedding;
- (e) food and beverage service activities for supply to a business engaged in an essential service;
- (f) the provision of food or beverage takeaway or delivery services.

Information and communications

9. The following services relating to information and communications:

- (a) the production and publication of newspapers, journals and periodicals and the distribution of those publications, whether in hardcopy or digital format;
- (b) the production of television and radio programmes, video, sound, digital or other electronic content and the broadcast or publication of the same to the public or a portion of the public;
- (c) the provision of services necessary to deliver and support electronic communications services, networks and associated facilities (including wired and wireless telecommunication activities, satellite telecommunication activities, and other communications activities (including broadband, internet and cloud services providers) from providers authorised by legislation);

- (d) the provision of data centre services and related services.

Financial and legal activities

10. The following services relating to financial and legal activities:

- (a) financial, insurance and banking services (including post office and credit union services) provided by a financial services provider;
- (b) accounting services or audit services;
- (c) legal services provided by practising barristers or practising solicitors.

Professional, scientific and technical activities

11. The following services relating to professional, scientific and technical activities:

- (a) the provision of engineering, technical testing activities and analysis (including the performance of physical, chemical and other analytical testing of materials and products);
- (b) the provision of scientific research and development services;
- (c) regulation, inspection and certification services, in accordance with law, of a particular sector by a body created by statute for that purpose.

Rental and leasing activities

12. The following services relating to rental and leasing activities:

- (a) property services (within the meaning of the Property Services (Regulation) Act 2011 (No. 40 of 2011)), property letting and management services;
- (b) the provision of a service for the rental or leasing of mechanically propelled vehicles or bicycles.

Administrative and support activities

13. The following services relating to administrative and support activities:

- (a) payroll and payment services necessary for the operation of undertakings and bodies;
- (b) employment placement and human resources services associated with the recruitment and deployment of workers engaged in the provision of essential services;

- (c) data processing, website hosting and related activities;
- (d) security activities to assist in either or both of the following:
 - (i) the delivery of essential services;
 - (ii) the securing of premises closed to the public;
- (e) funeral, burial and related services;
- (f) business support services (including information and communications technology support and sales, repair and maintenance for information and communications technology and telephones) where such services are necessary to support -
 - (i) any other essential service,
 - (ii) a person working from their place of residence where the business concerned is being operated from a place of residence, or
 - (iii) a business that is not an essential service, to the extent required to maintain that business in operation or to minimise any delay in the business resuming operation after these Regulations have ceased to be in operation;
- (g) where such services are necessary to support any other essential service:
 - (i) the cleaning of buildings;
 - (ii) industrial cleaning activities;
 - (iii) the provision of key third party supports other than those referred to in paragraph (f) provided under contract to a person providing an essential service;
- (h) essential health and safety training (that cannot be done remotely).

Public administration, emergency services and defence

14. The following services relating to public administration, emergency services and defence:

- (a) the performance by the Garda Síochána, including members and civilian staff of the Garda Síochána, of its functions under the Garda Síochána Act 2005 (No. 20 of 2005);
- (b) public order, rescue and emergency services (including fire, coastguard, lifeboat, mountain rescue and ambulance services);

- (c) the performance by the Defence Forces of the functions conferred on them by or under any enactment;
- (d) emergency call answering services;
- (e) services to enable the administration of justice;
- (f) prison services and child detention services (including all onsite activities);
- (g) cyber-security services;
- (h) the provision of social protection benefits;
- (i) regulatory processes and certification required to ensure supply chains, safety of food, beverages, medicinal products, medical devices or appliances, other medical or health supplies or products, and general process safety;
- (j) the operation and maintenance of botanical gardens, parks, forests, nature reserves and playgrounds;
- (k) activities relating to the management, protection, restoration and conservation of protected species, habitats and designated natural, archaeological and built heritage sites;
- (l) providing security, care and maintenance of the premises, collections and objects under the care and management of the National Gallery of Ireland, the National Library of Ireland, the National Museum of Ireland, the National Concert Hall, the National Archives, the Irish Museum of Modern Art, the Chester Beatty Library and the Crawford Art Gallery;
- (m) services relating to the deaths and funerals of persons;
- (n) chaplaincy services;
- (o) services provided or functions performed by an office holder appointed under any enactment or under the Constitution, or members of either House of the Oireachtas, the European Parliament or a local authority;
- (p) services provided under the Child Care Act 1991 (No. 17 of 1991);
- (q) adoption services under the Adoption Act 2010 (No. 21 of 2010);
- (r) services provided to victims;
- (s) services, including regulation services, provided by, and activities of, the Central Bank of Ireland, the Investor Compensation Company DAC (otherwise known as the Investor Compensation Company Limited) and the National Treasury Management Agency;

- (t) any other service provided, or function performed, by a public body (within the meaning of the Data Sharing and Governance Act 2019 (No. 5 of 2019)), where the provision of the service or performance of the function is necessary to support or manage -
 - (i) other essential services, or
 - (ii) the response of the State to the spread of Covid-19;
- (u) Driver Testing Services provided by the Road Safety Authority for the purposes of section 33 of the Road Traffic Act 1961 (No. 24 of 1961) for people involved in the provision of essential services or essential retail outlets;
- (v) Driving instruction provided by instructors on the Register of Approved Driving instructors, established under Part 3 of the Road Traffic (Driving Instructor Licensing) (No.2) Regulations 2009 (S.I. No. 203 of 2009), where the person receiving instruction has a booking reserved to undergo a test for the purposes of section 33 of the Road Traffic Act 1961 (No. 24 of 1961).
- (w) Commercial Vehicle Roadworthiness Test services provided by the Road Safety Authority for the purposes of section 5 of the Road Safety Authority (Commercial Vehicle Roadworthiness) Act 2012 (No. 16 of 2012);
- (x) National Car Test services provided by the Road Safety Authority for the purposes of section 18(8) of the Road Traffic Act 1961 (No. 24 of 1961);
- (y) statutory planning system activities, insofar as they cannot be carried out remotely;
- (z) National Driver Licence Service, insofar as it provides services by appointment to persons involved in the provision of essential services or essential retail outlets, and insofar as such services cannot be carried out remotely.

Human health and social work activities

15. The following services relating to human health and social work activities:

- (a) hospital services;
- (b) therapy services provided by a member of a designated profession within the meaning of section 3 of the Health and Social Care Professionals Act 2005 (No. 27 of 2005);

- (c) services relating to public health, including services relating to -
 - (i) the identification, tracing and contacting of persons who have been in contact with persons who have been diagnosed, or are suspected of having been infected, with Covid-19, and
 - (ii) the testing of persons for Covid-19;
- (d) laboratory services;
- (e) drug treatment and addiction services;
- (f) hospice services;
- (g) pharmacy services;
- (h) primary care and general and specialist medical practice activities;
- (i) dental services;
- (j) blood donation and related services;
- (k) tissue or organ donation and related services;
- (l) residential care services (including nursing care, mental health and substance abuse services, services for elderly persons and persons with disabilities) and children's residential services;
- (m) homecare, home help and other health services in the community;
- (n) social work and social care services, (including disability services, mental health services, child protection and welfare services, domestic, sexual and gender-based violence services) and homeless services including homeless outreach services;
- (o) paramedical, ambulance and pre-hospital care services;
- (p) services provided by minor injury units;
- (q) maternity services;
- (r) food safety and environmental services;
- (s) childcare services;
- (t) anti-doping services in accordance with Part 4 of the Sport Ireland Act 2015 (No. 15 of 2015).

Education

16. The following services relating to education activities:

- (a) primary and post primary school;

- (b) higher and further education, insofar as onsite presence is required and such education activities cannot be held remotely.

Community and voluntary services

17. The following services relating to community and voluntary services:

- (a) services not otherwise specified in this Schedule, provided by community and voluntary workers and the Civil Defence, as part of a publicly commissioned service, deployed to assist in the delivery of essential services;
- (b) volunteer services operating under the local authority emergency management framework in accordance with public health guidance.

Diplomatic missions and consular affairs

18. The provision of services essential to the functioning of diplomatic missions and consular posts in the State.



GIVEN under my Official Seal,
30 December, 2020.

STEPHEN DONNELLY,
Minister for Health.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

These Regulations revoke the Health Act 1947 (Section 31A - Temporary Restrictions) (Covid-19) (No. 9) Regulations (S.I. No. 560 of 2020), as amended. These Regulations provide for temporary restrictions on a range of indoor and outdoor events, along with temporary restrictions on access by the public to a range of businesses and services. They also provide for temporary restrictions on travel. The Regulations remain in operation until 31 January 2021.

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