

## TRANSLATION

### **German Federal Ministry of Health**

#### **Ordinance amending the COVID-19 Exemption from Protective Measures Ordinance (CoSchAusnahmVO)**

**As of 14 Jan, 2022**

The German Federal Government issues the following ordinance on the basis of

- § 28c of the Infection Protection Act, as last amended by Article 1 No. 3b of the Act of November 22, 2021 ( Federal Law Gazette I p. 4906), with due regard to the resolution of the Bundestag of January 13, 2022, and

- § 36 (8) sentences 1 to 4, (10) sentence 1 numbers 1, 1a, 2 letters a, b, c, d, g and i, number 3 and Paragraph 12 sentence 2 of the Infection Protection Act, the first sentence of paragraph 8 of which was amended by Article 1 number 3 letter a, double letter aa of the Act of March 29, 2021 (BGBl. I p. 370), the second sentence of paragraph 8 of which was amended by Article 1 number 3 letter a, double letter bb of the Act of March 29, 2021 ( Federal Law Gazette I p. 370), the third sentence of paragraph 8 of which was inserted by Article 1 number 3 letter a, double letter cc of the Act of March 29, 2021 (Federal Law Gazette I p. 370), the fourth sentence of paragraph 8 of which was inserted by Article 1 number 3 letter a, double letter bb of the Act of March 29, 2021 (Federal Law Gazette I p. 370). I p. 370), the fourth sentence of paragraph 8 of which was amended by Article 1(3)(a)(dd) of the Act of March 29, 2021 (Federal Law Gazette I p. 370), the first sentence of paragraph 10 of which was last amended by Article 12(1)(a)(aa) of the Act of September 10, 2021 (Federal Law Gazette I p. 4147), and the second sentence of paragraph 12 of which was revised by Article 9 of the Act of July 16, 2021 (Federal Law Gazette I p. 2947):

#### **Chapter 1 General Provisions**

##### **§ 1 Purpose of the Ordinance**

(1) The purpose of this ordinance is to regulate relief and exceptions from requirements and prohibitions under the fifth chapter of the Infection Prevention and Control Act or from requirements and prohibitions imposed pursuant to provisions under the fifth chapter of the Infection Prevention and Control Act on persons

1. with a presumed immunization against the coronavirus SARS-CoV-2, or
2. who can present a negative test result for an infection with the coronavirus SARS-CoV-2.

(2) Unless otherwise provided for in this Ordinance, this Ordinance shall not affect any requirements and prohibitions that exist under the fifth chapter of the Infection Prevention and Control Act or that have been or will be enacted based on the provisions in the fifth chapter of the Infection Prevention and Control Act, such as in particular

1. a requirement to wear a mouth-nose covering, mouth-nose protection or a respiratory mask,
2. a distance requirement in public spaces and
3. specifications in hygiene and protection concepts.

(3) Relief and exemptions provided for in this Ordinance do not apply to persons,

1. who show typical symptoms of an infection with the SARS-CoV-2 coronavirus, or
2. who have been confirmed to be currently infected with the SARS-CoV-2 coronavirus.

## **§ 2 Definitions**

For the purposes of this Ordinance

1. an asymptomatic person is a person who currently has no typical symptom or other evidence of a SARS-CoV-2 coronavirus infection; typical symptoms of a SARS-CoV-2 coronavirus infection include dyspnea, new-onset cough, fever, and loss of smell or taste,

2. a vaccinated person is an asymptomatic person holding a vaccination certificate issued to him/her,

3. a proof of vaccination is a proof of full vaccination against the coronavirus SARS-CoV-2 in German, English, French, Italian or Spanish language in written or digital form, provided that the respective vaccinations meet the requirements published by the Paul-Ehrlich-Institute in consultation with the Robert Koch-Institute at [www.pei.de/impfstoffe/ covid-19](http://www.pei.de/impfstoffe/covid-19) taking into account the current state of medical science and the following criteria:

- (a) vaccines used,
- (b) the number of required inoculations for full vaccination protection,
- (c) the number of booster vaccinations required to maintain full immunization,
- (d) interval times,
  - (aa) required after a vaccination for a full vaccination protection, and
  - (bb) maximum time between a single or booster dose of vaccination.

4. a recovered person is an asymptomatic person who is in possession of a certificate of recovery issued to him/her,

5. a proof of recovery is a proof of an acquired immune protection against the coronavirus SARS-CoV-2 as a result of a previous infection in German, English, French, Italian or Spanish language in written or digital form, if the proof meets the requirements published by the Robert

Koch-Institute at [www.rki.de/covid-19-genesenennachweis](http://www.rki.de/covid-19-genesenennachweis) taking into account the current state of medical science with regard to the following criteria:

- (a) testing method used to confirm prior infection,
- b) time required after the test confirming the previous infection, or the proof required to terminate isolation due to the previous infection,
- (c) The maximum time that have passed since the test confirming the pre-existing infection had been done.

6. a tested person is an asymptomatic person who

- a) has not yet reached the age of six, or
- b) holds a test certificate issued to him/her,

7. a test certificate is a proof regarding the absence of an infection with the coronavirus SARS-CoV-2 in German, English, French, Italian or Spanish language in embodied or digital form, if the underlying test has been carried out by in vitro diagnostics intended for direct detection of the coronavirus SARS-CoV-2 and which are marketable based on their CE marking or based on a special approval issued pursuant to § 11 para. 1 of the Medical Devices Act, the underlying test happened no more than 24 hours ago, and

- a) takes place on site under the supervision of the person subject to the protective measure in question,
- b) is carried out as part of an operational test in the meaning of occupational health and safety by personnel who have the necessary training or knowledge and experience for this purpose, or
- c) was performed or supervised by a health care provider pursuant to § 6 para. 1 of the Coronavirus Testing Ordinance,

8. State law enacted based on the provisions of the fifth chapter of the Infection Prevention and Control Act, an ordinance or a general decree issued by a state or an agency responsible under state law based on the provisions of the fifth chapter of the Infection Prevention and Control Act to prevent the spread of coronavirus disease-2019 (COVID-19).

### **§ 3**

#### **Equality of vaccinated and recovered persons with tested persons**

If state law pursuant to the provisions of the fifth section of the Infection Protection Act provides for or requires an exemption from requirements or bans applicable to persons who have tested negative for infection with the SARS-CoV-2 coronavirus, such exemption shall also apply to vaccinated persons and recovered persons.

(2) If state law enacted pursuant to the provisions of the fifth section of the Protection Against Infection Act provides for or requires that a person tests negative for infection with the SARS-CoV-2 coronavirus, such provision or requirement shall be considered satisfied in the case of vaccinated persons and recovered persons. State law enacted pursuant to the provisions of the fifth section of the Infection Protection Act, can provide that relief and exemptions from

protective measures shall apply to vaccinated and recovered persons only if they can present a negative result of a test for infection with the SARS-CoV-2 coronavirus.

#### **§ 4**

##### **Exceptions to the restriction on private gatherings pursuant to § 28b para. 1 sentence 1 number 1 of the Infection Prevention and Control Act**

(1) If state law pursuant to the provisions of the fifth section of the Infection Protection Act limits the number of persons, this limitation shall not apply to private gatherings and similar social contacts if only vaccinated persons or recovered persons are present at the gathering. State law pursuant to the provisions of the fifth section of the Infection Protection Act limiting the number of persons can, notwithstanding the first sentence, provide that the limitation shall also apply to private gatherings and similar social contacts attended exclusively by vaccinated or recovered persons.

(2) If state law pursuant to the provisions of the fifth section of the Infection Protection Act, limits the number of participants at a private gathering or at similar social contacts, vaccinated and recovered individuals shall not be taken into account when determining the number of participants.

State law pursuant to the provisions of the fifth section of the Infection Protection Act, limiting the number of participants at a private gathering or at similar social contacts, can, notwithstanding the first sentence, provide that vaccinated and recovered participants shall also be taken into account when determining the number of participants.

(3) Protective measures required to prevent risk to persons who, due to their age or state of health, have an increased risk of serious or fatal disease progression shall remain unaffected. Protective measures within the meaning of sentence 1 can also include the obligation of vaccinated and recovered persons to submit a negative result of a test for infection with the SARS-CoV-2 coronavirus.

#### **§ 5**

##### **Exceptions to the restriction of stays outside a dwelling or accommodation pursuant to § 28b para. 1 sentence 1 number 2 of the Infection Prevention and Control Act**

The restriction on staying outside a dwelling or accommodation and the associated enclosed property pursuant to § 28b para. 1 sentence 1 number 2 of the Infection Prevention and Control Act does not apply to vaccinated and recovered persons.

#### **§ 6**

##### **Exceptions from the obligation to isolate**

(1) If state law enacted based on the provisions of the fifth chapter of the Infection Prevention and Control Act provides for an obligation to isolate, this obligation does not apply to vaccinated and recovered individuals.

(2) Paragraph 1 shall not apply if

1. According to the requirements published by the Robert Koch Institute at [www.rki.de/kontaktpersonenmanagement](http://www.rki.de/kontaktpersonenmanagement), taking into account the current state of medical science, isolating can also be required for certain vaccinated or recovered individuals, or
2. Entering the Federal Republic of Germany following a prior stay in an area determined to be a virus variant area within the meaning of the Coronavirus Entry Ordinance.

## **§ 7**

### **Authorization of State governments to grant relief and exemptions**

The State Governments are authorized to regulate exemptions and exceptions from the requirements or bans under State law issued pursuant to the provisions in the fifth section of the Infection Protection Act for vaccinated, recovered and tested individuals, unless otherwise regulated by this Ordinance. § Section 3 (2) sentence 2 shall apply accordingly.

## **§ 12**

### **Entry into force**

This Ordinance shall enter into force on the day following its promulgation.

The Federal Council has given its consent.

Berlin, 14 January, 2022

Chancellor  
Olaf Scholz

Federal Minister for Health  
Karl Lauterbach