

TRANSLATION

**[German Federal] Law on the Prevention and Control of Infectious Diseases in Humans**  
**(IfSG)**

**§ 28b**

**Federal uniform protective measures to prevent the spread of coronavirus disease-2019 (COVID-19) in the event of a special infectious event, authorization to issue ordinances**

(1) If the number of new infections with the SARS-CoV-2 coronavirus per 100 000 inhabitants within seven days (seven-day incidence) published by the Robert Koch Institute exceeds the threshold value of 100 in a county or a county-free city on three consecutive days, the following measures shall apply there from the day after the next:

1. private gatherings in public or private space are only permitted if they are attended by no more than the members of one household and one other person, including children up to the age of 14 belonging to their household; gatherings which take place exclusively between members of the same household, exclusively between spouses or partners, or exclusively in the exercise of a right of custody or visitations, or in the context of events for up to 30 persons in case of death, are not affected;

2. the stay of persons outside a dwelling or a lodging and the respective pacified property is prohibited from 10 p.m. until 5 a.m. of the following day; this does not apply to stays for the following purposes:

- a) the prevention of danger to life, limb or property, in particular a medical or veterinary emergency or other treatment that cannot be postponed for medical reasons,
- b) the exercise of a profession within the meaning of Article 12 paragraph 1 of the Basic Law [*German Constitution*], insofar as this is not separately restricted, the exercise of a service or mandate, reporting by representatives of the press, radio, film and other media,
- c) the exercise of custody or visitation rights,
- d) the urgent care of persons in need of support or minors or accompanying dying persons,
- e) the care of animals,
- f) for similarly weighty and indispensable purposes, or
- g) between 10 p.m. and midnight for physical activity carried out outdoors alone, but not in sports facilities;

3. the opening of leisure facilities such as, in particular, amusement parks, indoor playgrounds, facilities such as bathing establishments, fun pools, hotel swimming pools, thermal baths and wellness centers as well as saunas, solariums and fitnessstudios, facilities such as, in particular, discotheques, clubs, amusement arcades, gambling houses, betting offices, prostitution establishments and brothels, commercial leisure activities, guided tours of cities, visitors and

nature of all kinds, cable cars, river and lake cruises for excursions, tourist rail and bus services and river cruises are prohibited;

4. the opening of shops and markets with customer traffic for commercial offers is prohibited; whereby the grocery trade including direct marketing, likewise beverage markets, health food shops, baby specialist markets, pharmacies, medical supply shops, drugstores, opticians, hearing acousticians, gas stations, places for newspaper sales, bookshops, flower shops, pet supplies markets, feed markets, horticultural stores, and the wholesale trade are excluded on condition that

a) the sale of goods which go beyond the usual range of the shop in question is prohibited,

b) for the first 800 square meters of total sales area, a limit of one customer per 20 square meters of sales area is observed, and above a total sales area of 800 square meters, a limit of one customer per 40 square meters of sales area is observed, whereby it shall in principle be possible for customers to maintain a distance of at least 1.5 meters from each other at all times, taking into account the specific spatial conditions, and

c) a respiratory protection mask (FFP2 or comparable) or a medical face mask (mouth-nose protection) is worn by every customer in enclosed rooms;

notwithstanding half-sentence 1

a) the collection of pre-ordered goods in shops is permissible, whereby the requirements of the half-sentence 1 letters (a) to (c) apply accordingly and measures are to be provided which avoid an accumulation of customers, for example by means of staggered time windows;

b) until the day after next, after the seven-day incidence has exceeded the threshold of 150 on three consecutive days, the opening of retail shops for individual customers after prior booking of an appointment for a fixed limited period of time is also permissible, if the requirements of half-sentence 1 letter a and c are observed, the number of customers present in the retail shop at the same time is not higher than one customer per 40 square meters of sales area, the customer has provided a **negative test result** for infection with the SARS- CoV-2 coronavirus carried out by means of a recognized test within 24 hours before the service is used, and the operator collects the customer's contact details, at least surname, first name, secure contact information (telephone number, e-mail address or postal address) and the period of stay;

5. the opening of institutions such as theatres, operas, concert halls, stages, music clubs, museums, exhibitions, memorials, and corresponding events are prohibited, including cinemas with the exception of drive-in cinemas; the outdoor areas of zoological and botanical gardens may be opened if appropriate protection and hygiene measures are taken and if the visitor, with the exception of children under the age of 6, presents a negative result of a test for SARS-CoV-2 coronavirus infection carried out by a recognized test within 24 hours before the start of the visit;

6. the practice of sports is only permitted in the form of non-contact practice of individual sports practiced alone, in pairs or with members of one's own household, as well as in the practice of

individual and team sports in the context of the competition and training activities of professional athletes and competitive athletes of the federal and state squads, if

- a) the presence of spectators is excluded,
- b) only persons who are required for competition or training operations or for media reporting are granted access to the sports facility, and
- c) adequate protection and hygiene concepts are observed;

for children up to the age of 14, exercise is also permitted in the form of non-contact outdoor exercise in groups of no more than five children; instructors must provide, at the request of the competent authority under State law, a **negative test result** for SARS-CoV-2 coronavirus infection carried out by means of a recognized test within 24 hours before the exercise;

7. the opening of restaurants within the meaning of the Restaurant Licensing Act is prohibited; this also applies to eating establishments and establishments in which food is served for consumption on the premises; exempt from the prohibition are:

- a) dining rooms in medical or nursing facilities or institutions of care,
- b) catering services provided in tourist accommodation establishments for the sole purpose of providing hospitality to persons receiving admissible accommodation,
- c) offers necessary for the care of homeless people,
- d) the hospitality of long-distance bus drivers and long-distance truck drivers who transport goods or merchandise by road for professional reasons and can prove this in each case by means of an employer's certificate,
- e) non-public staff restaurants and non-public canteens, if their operation is absolutely necessary for maintaining the work processes or for the operation of the respective facility, in particular if individual meals cannot be taken in separate rooms;

the delivery of food and beverages and their take away sale are also exempt from the prohibition; purchased take-away food and beverages may not be consumed at the place of purchase or in its immediate vicinity; take-away sales are prohibited between 10 p.m. and 5 a.m.; the delivery of food and beverages remains permissible;

8. the practice and use of services in which physical proximity to the customer is indispensable is prohibited, with the exception of services which serve medical, therapeutic, nursing or pastoral purposes, as well as barber shops, hairdressing establishments, and chiropody, in each case subject to the proviso that, irrespective of the provisions of occupational health and safety law and insofar as the nature of the service permits, respiratory protection masks (FFP2 or comparable) must be worn by those involved, and, prior to the client receiving barber, hairdressing, or chiropody services, a **negative test result** for SARS-CoV-2 coronavirus infection carried out by a recognized test within 24 hours prior to the service being provided;

9. when transporting passengers in local or long-distance public transport, including the paid or business transport of passengers by motor vehicles, including taxis and school transport, passengers are required to wear a respiratory protection mask (FFP2 or comparable) both during the transport and during the stay in an establishment belonging to the respective transport; a

maximum occupancy of the respective means of transport with half of the regularly permissible number of passengers is to be aimed at; for the control and service personnel, as far as they come into contact with passengers, the obligation to wear a medical face mask (mouth-nose protection) applies;

10. the provision of overnight accommodation for tourist purposes is prohibited.

The Robert Koch Institute continuously publishes the seven-day incidence of the last 14 consecutive days for all counties and county-free cities on the internet at <https://www.rki.de/inzidenzen>. The competent authority under State law has to make public in a proper manner the days from which the respective measures pursuant to sentence 1 apply in a county or county-free city. The announcement pursuant to sentence 3 is to be made without delay after it has become apparent on the basis of the publication pursuant to sentence 2 that the prerequisites of sentence 1 have occurred.

(2) If the seven-day incidence in a county or county-free city falls below the threshold value of 100 on five consecutive business days after the entry into force of the measures of paragraph 1, the measures of paragraph 1 cease to apply on the day after the next. Sundays and public holidays do not interrupt the counting of the days relevant pursuant to sentence 1. Paragraph 1 sentences 3 and 4 apply mutatis mutandis to the announcement of the date of expiry. If the exception in paragraph 1 sentence 1 number 4 half-sentence 2 letter b has expired because the threshold value of 150 has been exceeded, sentences 1 to 3 shall apply mutatis mutandis with the proviso that the relevant threshold value is 150.

(3) Conducting face-to-face teaching at general and vocational schools is only permissible if appropriate protection and hygiene concepts are observed; participation in face-to-face teaching is only permissible for students and teachers who are **tested twice a week** for infection with the SARS-CoV-2 coronavirus by means of a recognized test. If the seven-day incidence exceeds the threshold of 100 for three consecutive days in a county or county-free city, on the day after the next, the provision of face-to-face teaching is only permissible for general and vocational schools, universities, extracurricular adult education establishments and similar establishments in the form of alternating teaching. If the seven-day incidence exceeds the threshold of 165 for three consecutive days in a county or county-free city, conducting face-to-face teaching is prohibited from the day after the next for general and vocational schools, higher education institutions, extracurricular adult education establishments and similar establishments. Graduating classes and special schools may be exempted from the prohibition under sentence 3 by the authority responsible under State law. The authorities responsible under State law may set up emergency care in accordance with criteria laid down by them. Paragraph 2, sentences 1 and 2 shall apply mutatis mutandis to the expiry of the prohibition under sentence 3, subject to the proviso that the relevant threshold is 165. Paragraph 1 sentences 3 and 4 shall apply mutatis mutandis to the announcement of the day from which the prohibition pursuant to sentence 3 applies in a county or county-free city. Paragraph 2 sentence 3 shall apply mutatis mutandis to the announcement of the date of expiry in accordance with sentence 6. For facilities pursuant to § 33 numbers 1 and 2, the sentences 3 and 5 to 7 accordingly.

(4) Assemblies within the meaning of Article 8 of the Basic Law as well as gatherings which serve the practice of religion within the meaning of Article 4 of the Basic Law shall not be subject to the restrictions under paragraph 1.

(5) Further protective measures on the basis of this law remain unaffected.

(6) The Federal Government is hereby empowered to issue the following prohibitions and requirements by ordinance and to specify, relax or exempt the following:

1. for cases where the seven-day incidence exceeds the threshold of 100, additional bans and prohibitions pursuant to § 28 paragraph 1 sentences 1 and 2 and § 28a paragraph 1 to prevent the spread of coronavirus disease-2019 (COVID-19),
2. specifications, relaxations or exemptions to the measures referred to in paragraphs 1, 3 and 7 and to the requirements and prohibitions adopted pursuant to number 1.

Ordinances of the Federal Government pursuant to sentence 1 shall require the consent of the Federal Parliament (Bundestag) and the Federal Council (Bundesrat).

(7) In the case of office work or comparable activities, the employer shall offer the employees the opportunity to carry out these activities in their homes if there are no compelling operational reasons to the contrary. The employees shall accept this offer unless there are compelling reasons for them not to do so. The competent authorities for the implementation of sentences 1 and 2 shall be determined by the States pursuant to § 54 sentence 1.

(8) The Land of Berlin and the Free and Hanseatic City of Hamburg shall be regarded as county-free cities for the purposes of this provision.

(9) Recognized tests within the meaning of this regulation are in vitro diagnostic medical devices which are intended for the direct pathogen detection of the SARS-CoV-2 coronavirus and which are marketable on the basis of their CE marking or on the basis of a special approval granted pursuant to § 11 paragraph 1 of the Medical Devices Act. Insofar as this regulation provides for the wearing of a respirator or a medical facemask, the following persons are exempt from this requirement:

1. children who have not yet reached the age of 6,
2. persons who are medically certified as unable to wear a respirator due to a medical condition, a medically certified chronic disease or a disability; and
3. deaf and hard of hearing people and persons who communicate with them, as well as their accompanying person.

(10) This provision shall apply only for the duration of the determination of an epidemic situation of national importance pursuant to § 5 paragraph 1 sentence 1 by the German Federal Parliament, but at the latest until the expiry of 30 June 2021. This shall also apply to statutory instruments pursuant to paragraph 6.

(11) The fundamental rights of physical integrity (Article 2 paragraph 2 sentence 1 of the Basic Law), freedom of the person (Article 2 paragraph 2 sentence 2, of the Basic Law), freedom of assembly (Article 8 of the Basic Law), freedom of movement (Article 11 paragraph 1 of the Basic Law) and inviolability of the home (Article 13 paragraph 1 of the Basic Law) are restricted and may also be restricted by ordinances pursuant to paragraph 6.

#### **§ 28c**

#### **Authorization to issue special rules for vaccinated, tested, and similar persons by ordinance**

The Federal Government is authorized to regulate by ordinance for persons who are assumed to be immunized against the SARS-CoV-2 coronavirus or who can present a negative test result for an infection with the SARS-CoV-2 coronavirus, exemptions or exceptions from prohibitions and restrictions according to the Chapter 5 of this Act or from prohibitions and restrictions issued on the basis of the regulations in the Chapter 5 of this Act. Statutory ordinances of the Federal Government pursuant to sentence 1 require the consent of the Federal Parliament (Bundestag) and the Federal Council (Bundesrat).