

**Fourteenth Bavarian Infection Protection Measures Ordinance**  
**(14<sup>th</sup> BayIfSMV)<sup>[1]</sup>**  
**Of 1 September 2021**  
**(BayMBI. No. 615)**  
**BayRS 2126-1-18-G**

Full quote according to the editorial guidelines (RedR): Fourteenth Bavarian Infection Protection Measures Ordinance (14<sup>th</sup> BayIfSMV) of 1 September 2021 (BayMBI. No. 615, BayRS 2126-1-18-G), last amended by the Ordinance of 30 September 2021 (BayMBI. No. 710)

In accordance with Article 32 clause 1 in conjunction with Article 28 sub-para. 1 and Articles 28a and 28c clause 3 of the German Infection Protection Act (IfSG) of 20 July 2000 (Federal Law Gazette I p. 1045), last amended by Article 6 of the Act of 27 July 2021 (Federal Law Gazette I p. 3274), in conjunction with Article 11 of the Covid-19 Protective Measures Exceptions Ordinance (SchAusnahmV) of 8 May 2021 (Federal Gazette Part 08.05.2021 V1) and Article 9 no. 5 of the Ordinance on Responsibility to Issue Decrees (DelV) of 28 January 2014 (Law and Ordinance Gazette p. 22, BayRS 103-2-V), last amended by the Ordinance of 27 July 2021 (Law and Ordinance Gazette p. 499), the Bavarian State Ministry of Health and Care orders:

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<sup>[1]</sup> Cf. the reasons required under Article 28a sub-para. 5 IfSG which were published in BayMBI. No. 616 dd. 1.9.2021.

## **Part 1 General regulations**

### **ARTICLE 1 General recommendations for conduct**

<sup>1</sup>All persons are urged to keep a minimum distance of 1.5 m from other people and pay attention to adequate hand hygiene wherever possible. <sup>2</sup>It is necessary to ensure sufficient ventilation in enclosed areas. <sup>3</sup>Where it is not possible to keep a minimum distance of 1.5 m from other people, without prejudice to Article 2, the wearing of a medical face mask is recommended.

### **ARTICLE 2 Mask obligation**

(1) <sup>1</sup>In buildings and enclosed spaces, including enclosed areas of public vehicles, cabins and the like, the obligation to wear a medical face mask applies ('mask obligation'). <sup>2</sup>The mask obligation does not apply

1. inside private premises,
2. for fixed seats, standing places or workstations, as long as a minimum distance of 1.5 m is maintained from other people who are not members of the person's own household; this clause does not apply to passengers on local or long-distance public transport or school transport,
3. to guests in catering facilities, as long as they are sitting at a table,
4. to guests in catering facilities, as long as they are sitting at a table,
5. to staff, as long as reliable infection protection in cash desk and counter areas is guaranteed by transparent or other suitable protective screens,
6. for other compelling reasons.

<sup>3</sup>Article 13 remains unaffected by this.

(2) In open spaces, subject to special regulations, the mask obligation only applies in the entry and meeting areas at events involving more than 1,000 people.

(3) <sup>1</sup>The following persons are exempted from the mask obligation:

1. Children up to the age of six;

2. Persons who can credibly demonstrate that it is not possible or that it is unreasonable for them to wear a mask due to a disability or for health reasons, as long as they can prove this immediately on the spot, in particular by presenting the original copy of a written medical certificate, which must contain their full name, their date of birth and specific details of the reason for the exemption.

<sup>2</sup>The mask may be removed if it is necessary for identification purposes or for communicating with persons with impaired hearing. <sup>3</sup>In the case of employees, during their work activity the mask obligation only applies within the framework of occupational health and safety law.

### **ARTICLE 3 Vaccinated, recovered, tested (the '3 Gs' – *geimpft, genesen, getestet*)**

(1) <sup>1</sup>If the number of new infections with the SARS-Cov-2 coronavirus within the geographical area of a local authority exceeds the figure of 35 per 100,000 inhabitants within a period of seven days ('7-day incidence'), then with respect to enclosed spaces, access to

1. public and private events involving up to 1,000 people in non-private premises, sports facilities and practical sports training, fitness studios, the cultural sector including theatres, opera houses, concert halls, stages, cinemas, museums, exhibitions, memorial sites, properties belonging to the Bavarian State Administration for Palaces, Gardens and Lakes, catering facilities, the accommodation sector, universities, meetings, congresses, libraries and archives, extracurricular educational provision including vocational education, training and skills development, music schools, driving schools and adult education, zoological and botanical gardens, leisure facilities including public baths, spas, saunas, solaria, cable cars and excursion boats, guided tours, show caves and exhibition mines, amusement parks, indoor sports facilities, amusement arcades and casinos, betting offices, tourist rail and bus travel and areas comparable to these in infectiological terms;

2. services where physical proximity to the customer is inevitable, and which do not come under the category of medical, therapeutic or care services,

is only permitted to such persons who, in the meaning of Art. 2 nos. 2, 4 and 6 of the Covid-19 Protective Measures Exceptions Ordinance (SchAusnahmV), have been vaccinated, have recovered, or have been tested, subject to special regulations of this ordinance and with the exception of a professional or voluntary community activity necessary for operation or performance. <sup>2</sup>For this purpose, providers, event organisers and operators are obligated to check the required proofs of vaccination, recovery or testing.

(2) <sup>1</sup>Access to trade fairs, to public festivals, clubs, discotheques, brothels and comparable leisure facilities and to events involving more than 1,000 people, regardless of the 7-day incidence, and with the exception of a professional or voluntary community activity necessary for operation or performance, is only permitted to such persons who, in the meaning of Art. 2 nos. 2, 4 and 6 SchAusnahmV, have been vaccinated, have recovered, or have been tested. <sup>2</sup>Sub-para. 1 clause 2 applies accordingly.

(3) No access restrictions based on Art. 2 nos. 2, 4 and 6 SchAusnahmV exist for people who are neither vaccinated, recovered or tested in the sense of this paragraph with respect to the following: the commercial sector and the service and craft enterprises not mentioned in the above paragraphs 1 and 2; local and long-distance public passenger transport; school transport; examinations; polling stations and registration offices; religious services; assemblies in the meaning of Art. 8 of the German Constitution; and events organised by political parties and voter associations.

(4) Within the framework of sub-paras. 1 and 2, tested persons must provide evidence in written or electronic form of a negative test regarding infection with the SARS-CoV-2 coronavirus, based on

1. a PCR test, PoC-PCR test or a test using other nucleic acid amplification methods, carried out no more than 48 hours previously,

2. a PoC antigen test carried out no more than 24 hours previously, or

3. an antigen test designed for self-administration by lay persons ('self-test') approved by the Federal Institute for Drugs and Medical Devices and carried out under supervision no more than 24 hours previously,

which additionally must conform to the requirements of the Covid-19 Protective Measures Exemption Ordinance (SchAusnahmV).

(5) The following persons are regarded as equivalent to tested persons:

1. Children up to the age of six;
2. Pupils who undergo regular testing in the course of school attendance;
3. Children not yet attending school.

(6) <sup>1</sup>As soon as the 7-day incidence for its area, as published on the Internet by the Robert Koch Institute, exceeds the value of 35 on three successive days, the responsible local authority must announce it officially without delay. <sup>2</sup>In the event that this occurs, the requirements provided for this situation apply from the next day but one following the announcement. <sup>3</sup>Similarly, the local authority makes an announcement if the value of 35 is no longer exceeded for three successive days. <sup>4</sup>In this case, clause 2 applies analogously to the end of the measures provided for this incidence value. <sup>5</sup>Corresponding announcements of incidence during the validity period of the Thirteenth Bavarian Infection Protection Measures Ordinance continue to apply for the present Ordinance.

#### **ARTICLE 4 Larger events**

(1) <sup>1</sup>The following applies to larger events of any kind:

1. A maximum of 25,000 persons may be admitted at the same time.
2. In buildings, enclosed areas, stadia or sites whose capacity is limited in other ways, without prejudice to no. 1, 100% of the visitor capacity up to and including 5,000 people may be used, and the additional capacity used up to a maximum of 50% for that portion of the public exceeding 5,000 persons.
3. If more than 1,000 people are admitted, then the event organiser must present the infection protection concept required pursuant to Art. 6 sub-para. 1 to the responsible local authority in advance and without being prompted.

<sup>2</sup>The event organiser is obligated to ensure that the requirements of the mask obligation set out in Article 2 are observed.

(2) Additionally, for sport and cultural events involving more than 1,000 people, the following applies:

1. Only personalised admission tickets may be sold.
2. It is forbidden to sell, serve or consume alcoholic drinks.
3. Obviously inebriated people must not be granted admission.

#### **ARTICLE 5 Recording contact data**

(1) Contact data must be recorded at all events involving 1,000 or more people, for service providers who are inevitably placed in physical proximity to customers, in catering facilities, the accommodation sector, at meetings, congresses, trade fairs, cultural events, museums, exhibitions, memorial places, properties of the Bavarian Administration of State-Owned Palaces, Gardens and Lakes and comparable cultural sites, as well as zoological and botanical gardens, clubs, discotheques, brothels and similar leisure facilities.

(2) <sup>1</sup>Where, in accordance with sub-para. 1 or on account of the infection protection concepts for which this Ordinance provides, contact data are collected for the purpose of contact tracing in the event of an ascertained infection with the coronavirus SARS-CoV-2, Article 28a sub-para. 4 of the Infection Protection Act (IfSG) applies, subject to the following:

1. The surname and first names, an address and secure contact information (phone number, email address) and the period of stay must be documented for each person;

2. If contact details are given to a person obligated to collect them, they must be accurate.

<sup>2</sup>The collection of contact data as per sentence 1 may also be carried out in electronic form, as long as a sufficiently precise documentation of the data specified in sentence 1 no. 1 is ensured. <sup>3</sup>Authorities, courts and public bodies that perform tasks in the public interest or undertake acts ordered by a public authority may also collect personal data in accordance with clauses 1 and 2 as part of the entry procedure for the relevant buildings or premises.

## **ARTICLE 6 Infection protection concepts**

(1) <sup>1</sup>Operators or event organisers in the following sectors must develop an individual infection protection concept and comply with it: the commercial sector, markets and shopping centres, services and manual trades accessible to customers, institutions described in Art. 9 sub-paras. 1 and 2 and residential intensive care facilities outside hospitals where outpatients are treated, assemblies in enclosed spaces in the sense of Article. 8 of the German Constitution, sports facilities and sporting events, leisure facilities of all kinds, catering facilities, the accommodation sector, meetings, congresses, trade fairs, universities, schools, child day care facilities, vocational education, training and skills development, extracurricular education, libraries, archives, the cultural sector, theatres, opera houses, concert halls, stages, cinemas, museums, exhibitions, memorial sites, properties belonging to the Bavarian State Administration for Palaces, Gardens and Lakes, ensembles of non-professional or amateur performers, public festivals, clubs, discotheques and brothels, as well as in similar cases. <sup>2</sup>The above does not apply if an event or assembly involves less than 100 people. <sup>3</sup>The responsible authority can demand that an infection protection concept be drawn up, either generally or in individual cases. <sup>4</sup>Unless otherwise specified, the infection protection concepts must be presented to the responsible local authority on request only.

(2) <sup>1</sup>The relevant state ministry responsible for the sector, in consultation with the State Ministry of Health and Care, shall announce conceptual frameworks under infection protection law for specific sectors. <sup>2</sup>The operators or event organisers in the sectors affected by this must create infection protection concepts that accord with the requirements of the conceptual framework.

## **Part 2 Supplementary regulations for individual sectors**

### **ARTICLE 7 Religious services**

For religious services which are open to the public in churches, synagogues and mosques, and meetings of other religious communities, the following applies in addition to the general regulations:

1. Subject to Article 4, religious services or meetings which only vaccinated, recovered or tested people attend can be held without any upper limit to the number of attendees; otherwise, the maximum number of participants allowed in buildings, including vaccinated and recovered persons, is determined by the number of available seats with a minimum distance of 1.5 m to other seats.

2. Subject to Article 4, religious services or meetings which only vaccinated, recovered or tested people attend can be held without any upper limit to the number of attendees; otherwise, the maximum number of participants allowed in buildings, including vaccinated and recovered persons, is determined by the number of available seats with a minimum distance of 1.5 m to other seats.

### **ARTICLE 8 Assemblies as defined by Article 8 of the German Constitution**

(1) <sup>1</sup>In the case of assemblies as defined by Article 8 of the Constitution which are held outdoors, a minimum distance of 1.5 m must be maintained between all participants. <sup>2</sup>If necessary, the authorities responsible according to Article 24 sub-para. 2 of the Bavarian Assembly Act (BayVersG) must ensure that the infection risks arising from the assembly also remain limited to a reasonable level in other respects, by means of restrictions in accordance with Art. 15 BayVersG.

(2) Subject to Article 4, assemblies as defined by Article 8 of the German Constitution which are held in enclosed spaces and in which only vaccinated, recovered or tested persons take part can be held without any upper limit to the number of attendees; in other cases, the maximum number of participants allowed, including vaccinated and recovered persons, is determined by the number of available seats with a minimum distance of 1.5 m from other seats.

## **ARTICLE 9 Nursing and disabled care facilities, hospitals**

(1) <sup>1</sup>In fully residential care facilities as defined in Article 71 sub-para. 2 of the Eleventh Book of the Social Code, facilities for persons with disabilities as defined in Article 2 sub-para. 1 of the Ninth Book of the Social Code where integration assistance services are provided by day and by night, and in retirement homes and nursing homes, non-vaccinated or non-recovered staff must be subjected to a test for infection with the SARS-CoV-2 coronavirus on at least two different days of each week in which they are assigned for duty.

<sup>2</sup>The infection protection concept of the facility must contain a corresponding testing concept. <sup>3</sup>The facilities must organise the necessary tests. <sup>4</sup>Article 3 sub-para. 2 applies accordingly to people visiting patients or residents of such facilities. <sup>5</sup>Article 3 sub-para. 5 no. 3 and Article 3 sub-para. 5 no. 2 do not apply to school students during school holidays.

(2) <sup>1</sup>The infection protection concept of hospitals and preventive care/rehabilitation facilities where medical care comparable to that offered in hospitals is provided (facilities as defined in Art. 23 sub-para. 3 clause 1 nos. 1 and 3 IfSG) must also contain a test concept that in particular provides for regular testing of facility staff for infection with the SARS-CoV-2 coronavirus on at least two different days of each week in which they are assigned for duty. <sup>2</sup>The facilities must organise the necessary tests. <sup>3</sup>Art. 3 sub-para. 1 applies accordingly to people visiting patients or residents of such facilities.

(3) Outpatient care services and day-care centres must subject their non-vaccinated or non-recovered employees to regular testing for SARS-CoV-2 coronavirus infection on three different days per week.

(4) Tending to a dying person is permitted at any time.

## **ARTICLE 10 Gastronomy**

(1) In addition to the general regulations, the following applies to catering facilities:

1. In enclosed rooms, dancing is only permitted at events permitted under this Ordinance.
2. In enclosed rooms, playing music and musical accompaniment is only permitted as background music, except at events permitted under this Ordinance.
3. Articles 3 and 5 do not apply to staff canteens not accessible to the public.

(2) For licensed public bars as defined in Article 1 sub-para. 1 no. 1 and Article 2 of the German Licensing Act [Gaststättengesetz], sub-para. 1 applies with the proviso that in enclosed rooms customers must be served at their tables and it is not permitted to serve or consume drinks at the bar or counter.

(3) The dispensing and delivery of take-away food and drinks is permitted.

## **ARTICLE 11 Accommodation**

Within the framework of Article 3, overnight guests at hotels, tourist accommodation, country lodges for schools, youth hostels, camping sites and all other commercial or fee-charging accommodation facilities must present proof of testing according to Article 3 sub-para. 4 only on arrival and, additionally, every 72 hours subsequently.

## **ARTICLE 12 Trade fairs**

In a departure from Article 4 sub-para. 1 clause 1 no. 1, an upper limit of 50,000 visitors per day applies for trade fairs.

## **ARTICLE 13 Schools**

(1) For lessons and other school activities, lunchtime supervision at schools and teaching and study activities at the State Institute for the Training of Specialist Subject Teachers and the State Institute for the Training of Support Teachers, Article 2 applies with the addition of the following measures:

1. Article 2 sub-para. 1 clause 1 does not apply.

2. Pupils up to and including Year 4 may wear a textile mouth and nose covering instead of a medical face mask.

(2) <sup>1</sup>Pupils are only permitted to participate in classroom teaching, in other school activities or face-to-face school holiday courses and lunchtime and emergency care groups if, three times a week, they provide proof of a test result as per Article 3 sub-para. 4 nos. 1 and 2, or have taken a self-test provided by and to be used under supervision at school, with a negative result. <sup>2</sup>For pupils at elementary level or at special needs schools focusing on intellectual development, physical and motoric development and vision, clause 1 applies with the proviso that, after a decision by the State Ministry for Education and Culture, two PCR pool tests weekly may take the place of three weekly self-tests. <sup>3</sup>In the event that an infection occurs in a class, the local authority can order the participants in this class to present daily evidence of testing. <sup>4</sup>The school will process the test result for the purposes referred to in clauses 1 and 2. <sup>5</sup>The test data will not otherwise be passed on to third parties, subject to reporting duties under the Infection Protection Act. <sup>6</sup>As regards participation in PCR pool tests, the laboratories and transport personnel engaged to perform the testing are not regarded as third parties in the meaning of clause 5. <sup>7</sup>The test result shall be kept for a maximum of 14 days. <sup>8</sup>The State Ministry for Education and Cultural Affairs may announce exceptions for students with special educational needs. <sup>9</sup>Clauses 1 and 3 to 7 apply to teachers and other staff working at the school with regard to their activities on school premises and in premises for lunchtime provision, with the proviso that a self-test may also be carried out outside the school and without supervision if the person vouches that the test result was negative; if the test result is to be used for extracurricular purposes, the self-test must be carried out under supervision at school.

#### **ARTICLE 14 Child day care**

(1) The providers of child day-care facilities or curative day-care centres and child minders must provide two tests per week of care for every child not yet enrolled in school which enable direct pathogen detection of the SARS-CoV-2 coronavirus, or must make it possible for students to collect two self-tests from pharmacies free of charge.

(2) <sup>1</sup>Pupils may only attend day care if they have tested negative as set out in Article 13 sub-para. 2. <sup>2</sup>If the requirements for attending classroom teaching or emergency childcare on the same day as set out in Article 13 sub-para. 2 have not yet been met, Article 13 sub-para. 2 shall apply accordingly, with the exception that 'the childcare facility' shall replace 'the school'.

(3) <sup>1</sup>Staff of child day-care and special pedagogical day-care facilities and other people working there are only allowed to enter such premises if they present proof of a test as set out in Art. 3 sub-para. 4 nos. 1 and 2, or vouch that they have undertaken a self-test with a negative result. <sup>2</sup>If the test result of a self-test is to be used for purposes outside the facility, the self-test must be carried out under supervision at the facility.

#### **ARTICLE 15 Other specific regulations**

(1) It is forbidden to party in public places and grounds.

(2) <sup>1</sup>The consumption of alcohol is prohibited in public areas of frequent encounters in town centres or other public places in the open air where people are present either in close proximity to each other or for more than a short space of time. <sup>2</sup>The exact locations involved are determined by the responsible local authority in each case.

(3) Within the framework of Article 3, non-vaccinated or non-recovered passengers on river cruises must present proof of a test result as specified in Article 3 sub-para. 4 when embarking, if embarkation takes place in Bavaria, and on the day of any shore leave.

(4) <sup>1</sup>For clubs, discotheques, brothels and comparable leisure facilities, Article 3 sub-para. 2 shall apply accordingly to visitors and employees with customer contact, with the proviso that a proof of a negative test with regard to an infection with the SARS-CoV-2 coronavirus can only be furnished by means of proof of a test as specified in Article 3 sub-para. 4 no. 1. <sup>2</sup>Non-vaccinated or non-recovered employees with customer contact must present the corresponding proof of testing on at least two different days per week. <sup>3</sup>Article 10 sub-paras. 1 and 2 as well as Article 2 sub-para. 1 clause 1 do not apply to the group of persons specified in clauses 1 and 2 above; provisions of occupational health and safety law remain unaffected.

### **Part 3 Heightened measures in the event of increased strain on the health system (hospital red alert)**

#### **ARTICLE 16 Increased hospital admissions**

<sup>1</sup>As soon as more than 1,200 people across Bavaria have contracted COVID-19 and been referred to Bavarian hospitals and admitted as inpatients there in the past seven days, the State Government and the State Ministry of Health and Care shall immediately take further protective measures to prevent any further strain on the health system, taking into account a risk assessment and forecast for the development of the infection by the State Office for Health and Food Safety. These include, for example:

1. Raising the general mask standard to FFP2 or a mask of at least the equivalent recognised standard,
2. Raising the test quality required for proof of testing; in particular, requiring PCR tests,
3. Contact restrictions,
4. Upper limits on attendance at public and private events.

<sup>2</sup>Article 18 sub-para. 1 remains unaffected by this.

#### **ARTICLE 17 Increased ICU occupation**

<sup>1</sup>As soon as, according to the figures of the DIVI intensive care register, more than 600 hospital beds with invasive ventilation facilities in intensive care units are occupied by people who have contracted COVID-19, the State Government and the State Ministry of Health and Care shall immediately take further protective measures exceeding Article 16 to prevent any further strain on the health system, taking into account a risk assessment and forecast for the development of the infection by the State Office for Health and Food Safety. <sup>2</sup>Article 18 sub-para. 1 remains unaffected by this.

### **Part 4 Final provisions**

#### **ARTICLE 18 Additional instructions, exemptions**

(1) <sup>1</sup>Additional or supplementary instructions from the authorities responsible for the enactment of the Infection Protection Act regarding the provisions of this Ordinance or the infection protection concepts issued on its basis remain unaffected. <sup>2</sup>The responsible local authority shall take additional measures, in particular in the event of an outbreak of COVID-19 infections that is high for the region.

(2) <sup>1</sup>Upon application, special permits may be granted by the responsible local authority, provided that each case is acceptable in terms of infection protection legislation. <sup>2</sup>Special exemptions for a general group of persons or a general constellation of cases may only be granted in agreement with the responsible government under the conditions of sentence 1.

#### **ARTICLE 19 Offences**

An offence within the meaning of Section 73 sub-para. 1a no. 24 IfSG is committed by anyone who, intentionally or negligently,

1. in breach of Article 2, does not comply with the mask obligation or, in breach of Article 4 sub-para. 1 clause 2, in their role of event organiser does not ensure that the mask obligation is complied with,

2. in breach of Articles 3, 9 and 11 or Article 15 sub-para. 3 or 4, enters a facility specified therein without the necessary evidence of vaccination, recovery or testing, or uses a service specified therein or, in their role of event organiser or owner of a business or facility, does not ensure that the guest, visitor or user, and in the case of Article 15 sub-para. 4, the employee, presents evidence of vaccination, recovery or testing as set out in Article 3 sub-para. 1 clause 2 and sub-para. 2 clause 2,
3. organises larger events in breach of Article 4,
4. in breach of Article 5, as a person obliged to obtain contact data does not record these or, as a person obliged to declare contact data, provides false information,
5. in breach of Article 6, does not draw up an infection protection concept,
6. takes part in an assembly in breach of Article 8 sub-para.1 clause 1 or, in breach of Article 8 sub-para. 2, organises assemblies in enclosed spaces,
7. in breach of Article 9, in their role of operator of one of the facilities specified therein, does not draw up an infection protection concept,
8. operates a gastronomic business in breach of Article 10,
9. organises trade fairs in breach of Article 12,
10. in breach of Article 13, operates a private school as defined by Art. 90 et seq. of the Bavarian Education and Training Act without fulfilling the obligations set out in Article 13 sub-para. 2,
11. in breach of Article 14, operates a child day care facility without complying with the obligations specified therein,
12. in breach of Article 15 sub-para. 1, parties in public places or grounds or, in breach of Article 15 sub-para. 2, consumes alcohol,
13. in breach of Article 15 sub-para. 4, operates the facilities specified therein.

## **ARTICLE 20 Effective date, expiry date**

This Ordinance comes into effect on 2 September and expires on 29 October 2021 at midnight.

Munich, 1 September 2021

**Bavarian State Ministry of Health and Care**

Klaus Holetschek, State Minister