

Enforcement of the Infection Protection Act (IfSG)

General ruling on protective measures for persons testing positive for the coronavirus SARS-CoV-2 (AV Corona-Schutzmaßnahmen)

Announcement of the Bavarian State Ministry of Health and Care of 15 November

2022, ref. GCRa-G8000-2022/44-504

In accordance with Article 28 sub-para. 1 clause 1, Article 28b sub-para. 5 clause 3 and Article 31 of the Infection Protection Act (IfSG) in conjunction with Section 65 clause 2 no. 2 of the Responsibilities Ordinance (ZustV), the Bavarian State Ministry of Health and Care hereby issues the following

General Ruling

1. Scope of application

Unless otherwise specified, the provisions of this General Ruling shall apply to persons who were informed by the health authority, by the person who performed or supervised the test or by the body evaluating the test that a PCR test, PoC-PCR test or test performed by other means of nucleic acid amplification technology (nucleic acid test) or antigen test for the direct detection of the SARS-CoV-2 virus (antigen test) carried out on them or supervised by a healthcare professional or a comparable person trained for this purpose yielded a positive result (persons who have tested positive).

2. Beginning and end of the protective measures

- 2.1 For persons who have tested positive, the mask obligation as per no. 3 and the entry and activity prohibitions as per no. 4 shall apply without delay upon learning of the positive test result. The office announcing the test result will inform persons who have tested positive about their obligation to adhere to these protective measures when the test result is announced. The notification obligations pursuant to Article 6 sub-para. 1 clause 1 no. 1 letter t and Article 7 sub-para. 1 clause 1 no. 44a of the Infection Protection Act (IfSG) remain unaffected by this.
- 2.2 The protective measures as per nos. 3 and 4 will end at the earliest five days after the initial detection of the virus and subject to freedom from symptoms for at least 48 hours, but at the latest after ten days. Notwithstanding clause 1, for persons who have tested positive by means of an antigen test which was performed by a healthcare professional or a comparable person trained for this purpose, provided that the first nucleic acid test performed on such persons after the positive antigen test produces a negative result, the protective measures as per nos. 3 and 4 shall end upon obtaining this negative test result. If the test result is positive, the end of the protective measures as per nos. 3 and 4 is determined according to clause 1, with the initial detection of the virus being the positive antigen test specified in clause 2.

3. Mask obligation

- 3.1 Persons who have tested positive are, at a minimum, required to wear a medical face mask outside of their own home. The home referred to in clause 1 also includes in particular the garden belonging to the home, the terrace and the balcony.
- 3.2 The mask obligation as per no. 3.1 does not apply:
- a) in the open air if a minimum distance of 1.5 metres from other people can be maintained;
 - b) indoors when no other people are present;

- c) for children up to the age of six;
- d) for 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;
- e) for persons who are deaf or hard of hearing, and their companions;
- f) if it is necessary for identification purposes or for communicating with persons with impaired hearing;
- g) for other compelling reasons.

4. Prohibition of entry and work in certain facilities and mass accommodation

- 4.1 Persons who have tested positive who are operators, employees, visitors or voluntary workers may not enter or work in facilities specified in Article 23 sub-para. 3 clause 1 and Article 35 sub-para. 1 clause 1 IfSG or mass accommodation pursuant to Article 36 sub-para. 1 nos. 3 to 6 IfSG.
- 4.2 The prohibition of entry and work pursuant to no. 4.1 does not include the following:
 - a) special pedagogical day-care facilities and
 - b) operators, employees and voluntary workers of facilities as per Article 23 sub-para. 3 clause 1 nos. 1, 3 and 11 IfSG and of fully and partly inpatient facilities for the accommodation and care of disabled people, who work in areas where there are no people at increased risk of a serious or fatal course of COVID-19 due to their age or state of health (vulnerable persons); the areas without vulnerable persons must be named by the relevant facilities in the hygiene plans pursuant to Article 23 sub-para. 5 clause 1 or Article 35 sub-para. 1 clause 3 IfSG and communicated to the employees.
- 4.3 If the prohibition of entry and work endangers the continuity of business operations in the facilities and mass accommodation mentioned in no. 4.1 despite the exhaustion of all organisational possibilities, such as the transfer of personnel from other areas, it is possible to make an exception to the instruction issued in no. 4.1 for persons who have tested positive, subject to adherence to infection hygiene requirements in order to protect, in particular, other employees. The decision will be taken by the responsible local authority; where appropriate, following consulting with the occupational health service and the management of the facility or mass accommodation.
- (4.4) Tending to a dying person is permitted at any time.
- 4.5 For persons who have tested positive who are treated, looked after, accommodated or cared for in facilities and mass accommodation as per no. 4.1, appropriate protective measures, such as exclusion from participation in community events, must be put in place by the management of the facility or accommodation.

5. Recommended behaviour for persons who have tested positive

Persons who have tested positive are advised to go into voluntary self-isolation for the period mentioned in no. 2, to undertake their professional activities from their own homes wherever possible, to avoid unnecessary contact with other persons and to refrain from attending public events and eating out.

6. Transitional regulation

For persons who are, on 15 November 2022, in isolation as persons who have tested positive on the basis of the General Ruling of the Bavarian State Ministry of Health and Care dated 12 April 2022, ref. G51v-G8000-2022/44-242 (BayMBl. 2022 No. 225), concerning isolation of persons who have tested positive for the coronavirus SARS-CoV-2 (General Ruling on Isolation), which was last amended by the General Ruling dated 27 October 2022, ref. GCre-G8000-2022/44-479 (BayMBl. 2022 No. 606), the isolation requirement ends when this General Ruling comes into effect. For these persons, the protective measures according to nos. 3 and 4 as well as the behavioural recommendations according to no. 5 of this General Ruling shall replace the isolation requirement for the period specified in no. 2.

7. Offences

Any violation of no. 4 can be punished as an offence pursuant to Section 73 sub-para. 1a no. 6 IfSG.

8. Immediate enforceability

The present General Ruling is immediately enforceable by law.

9. Effective date, expiry date

This General Ruling takes effect on 16 November 2022 and expires on 31 January 2023. On 15 November 2022 at midnight, the General Ruling of the Bavarian State Ministry of Health and Care of 12 April 2022, ref. G51v-G8000-2022/44-242 (BayMBI. 2022 No. 225), concerning isolation of persons who have tested positive for the coronavirus SARS-CoV-2 (General Ruling on Isolation), which was last amended by the General Ruling dated 27 October 2022, ref. GCRE-G8000-2022/44-479 (BayMBI. 2022 Nr. 606), expires.