

**Second Ordinance on Measures Required to Protect the
Population from Infections with the SARS-CoV-2 Coronavirus (Second SARS-CoV-2 In-
fection Protection Measures Ordinance – 2. InfSchMV)**

From March 4, 2021

In the Version of the Second Ordinance Amending the Second SARS-CoV-2 In-
fection Protection Measures Ordinance

From March 27, 2021

Based on § 2 sentences 1 and 2 of the Berlin COVID-19 Parliamentary Participation Act from February 1, 2021 (GVBl. P. 102) and § 32 sentences 1 and 2 in conjunction with § 28(1) and § 28a(1) of the Infection Protection Act of July 20, 2000 (BGBl. I p. 1045), last amended by Article 4a of the Act from December 21, 2020 (BGBl. I p. 3136), the Senate hereby enacts the following:

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Part 1

Basic Obligations, Protection and Hygiene Regulations

§ 1

Ordinance objective; definitions

1. The objective of this Ordinance is to control the progressive spread of SARS-CoV-2 coronavirus and COVID-19 disease caused by it; this is to be done by taking measures to protect public health and manage the disease's impact on the public health system.

(2) For the purposes of this Ordinance, public space includes all places outside the private dwelling and the associated property (private space).

(3) An event within the meaning of this Ordinance is a planned event to take place for a limited time in which a group of people take part with a defined objective or intention, a program sequence with thematic, related content or purpose in the definable responsibility of an organiser, a person, an organisation or an institution. Assemblies according to Article 8 of the Basic Law and Article 26 of the Berlin Constitution are not considered events.

(4) A gathering within the meaning of this Ordinance occurs when persons come together and interact with each other but which is not an event as defined in subsection 3 or an assembly as defined in Article 8 of the Basic Law and Article 26 of the Berlin Constitution.

(5) A community mask (mouth-and-nose covering) is a textile barrier made of commercially available cloth material, tightly fitting at the sides and covering the mouth and nose, which by its nature is suitable to reduce the spread of potentially infectious droplet particles and aerosols produced by breathing, coughing, sneezing and speaking, irrespective of a label or certified category of protection. The community mask shall be worn so that the mouth and nose are covered in such a way as to reduce the spread of potentially infectious droplets and aerosols through breathing, coughing, sneezing or speaking. When this Ordinance requires a covering over the mouth and nose or when this is required based on the Ordinance, a medical face mask may also be worn in accordance with subsection 6.

(6) For the purposes of this Ordinance, a medical face mask is a protective mask made of special materials which complies with the requirements of European standard EN 14683:2019+AC:2019 (often called “surgical masks”) or which complies with the requirements of European standard EN 149:2001+A1:2009 for FFP2 masks or comparable protective standards (e.g., KN95, N95 or KF94 masks), but regardless of the type, the mask must not have an exhalation valve. Subsection 5 sentence 2 shall apply mutatis mutandis.

§ 2

Contact restrictions, conduct in public spaces

(1) Each person is required to reduce physical social contact with people who are not part of his or her own household to an absolute necessary minimum, to refrain from travelling and to leave his or her own home or usual accommodation only for valid reasons. This applies in particular to Persons who have symptoms of an infection with Covid-19 as described by the criteria of the Robert Koch Institute at the time. Each person is asked to ensure that they are not infected with the coronavirus SARS-CoV-2 before a private or other event using a point-of-care (PoC) rapid antigen test, including self-tests, and to wear a medical face mask for all types of contact with persons other than those described in § 2(2).

(2) Subsections 1 and 2 do not apply to spouses, life partners, members of a person's own household, persons for whom custody and access rights exist or to the critically ill or dying.

(3) When leaving the home or usual accommodation, staying in outdoor public spaces, especially on streets, paths, squares and in green areas is only permitted with the persons mentioned in subsection 2, or with members of one other household; the maximum number of persons permitted to be present at one time is five, whereby children who have not yet turned 14 years of age are not counted toward the maximum number of persons.

(4) Subsection 3 shall not apply

1. for stays in public places outdoors for the purpose of reporting by representatives of the press, radio, film or other media,
2. for the exercise of professional, mandate-related or voluntary activities, including the seasonally necessary cultivation of agricultural, horticultural and forestry land, and for political advertising by no more than two persons to individuals or individual groups of persons within the meaning of subsection 3 for the support of parties and voter communities as well as for referendums, popular initiatives, citizens' petitions and residents' motions,
3. for the use of local public transport, trains, planes, passenger ferries and motor vehicles used for transporting passengers for a fee or for business purposes or which have to be shared by employees for professional and official purposes,
4. for carrying out pedagogical activities outdoors by public schools and independent schools, including second chance schools and private-sector facilities within the meaning of the Schools Act (*Schulgesetz*) of January 26, 2004 (Law and Ordinance Gazette (GVBl.), p. 26), as last amended by Article 35 of the Act from October 12, 2020 (GVBl., p. 807), as amended, as well as day care facilities and day care services within the meaning of the Child Care Support Act (*Kindertagesförderungsgesetz*) of June 23, 2005 (GVBl., p. 322), as last amended by Article 30 of the Act from October 12, 2020 (GVBl., p. 807), as amended, and in the context of privately organised childcare and youth welfare services,
5. for homeless people, as far as and to the extent that they are not provided housing by the municipal government according to regulatory or local laws, and the upper limit of ten persons present at the same time is not exceeded,
6. for the provision of integration assistance services and assistance for homeless persons,
7. for participation in outdoor events and assemblies permitted under this Ordinance and
8. for engaging in sports permitted under this Ordinance.

§ 3

Distance requirement

(1) In public spaces, a minimum distance of 1.5 metres must be maintained when having contact with persons other than those named in § 2(2), including all private gatherings and events. Sentence 1 shall not apply if physical proximity less than 1.5 metres cannot be avoided under the circumstances, in particular

1. in the provision of health care and nursing activities, including the supply of therapeutic, assistance and nursing aids
2. in childcare for children within the meaning of § 22 of Book Eight of the Social Code (*Sozialgesetzbuch*) - Child and Youth Services - in the version published on September 11, 2012 (Federal Law Gazette (BGBl.) I p. 2022), last amended by Article 3(5) of the Act of October 9, 2020 (Federal Law Gazette I p. 2075), as amended, in schools including institutions of the second educational pathway within the meaning of the Schools Act, and in vocational training,
3. the provision of close-contact services,
4. in structurally small spaces that must be used by several people at the same time, for example in public transport or motor vehicles, or
5. if a sector-specific general hygiene policy pursuant to § 6(3) or a legal ordinance passed based on § 25 as an exception permits less than the minimum distance of 1.5 metres and other measures are in place to ensure protection against infection.

(2) Subject to § 2(2), every person is required to maintain the minimum distance specified in subsection 1 wherever possible, even in private spaces.

§ 4

Medical face mask and mouth-and-nose covering (community mask)

(1) A medical face mask must be worn in enclosed spaces

1. by non-driving staff when using public transport, including stations, airports and ferry terminals, and other vehicles with changing passengers,
2. in other vehicles by persons who are not driving if the use of the vehicle does not take place exclusively by the persons named in § 2(2),
3. by staff in retail shops of all kinds and shopping centres (malls) as well as in handicraft, service and other commercial enterprises open to the public, in service and handicraft enterprises in the field of close-contact services,
4. by participants in religious and cultic events according to Article 4 of the Basic Law and Article 29(1) of the Berlin Constitution,
5. by personnel in doctors' practices and other health care institutions, provided that the medical treatment in question does not prevent this,

6. in restaurants by guests and by staff with guest contact,
7. in covered sports facilities, including indoor swimming pools and similar premises used for practicing sport, except while practicing sport,
8. by employees and visitors in office and administrative buildings unless they stay in a specific seat or can maintain a minimum distance of 1.5 metres,
9. in lifts,
10. by participants at assemblies in enclosed spaces,
11. if this is required in addition to the occasions specified in numbers 1 to 14 in a sector-specific hygiene concept in accordance with § 6(3) or a legal ordinance issued on the basis of § 25.

(2) An FFP2 mask is to be worn in enclosed spaces

1. by passengers when using public transport including train stations, airports and ferry terminals as well as other vehicles with alternating passengers,
2. by patients and persons accompanying them in doctors' practices and other healthcare institutions, provided that the medical treatment in question does not prevent this,
3. by visitors and patients or residents in hospitals and nursing homes if they are outside of their room or are receiving visitors,
4. by customers in retail shops of all kinds and shopping centres (malls⁹ as well as in handicraft, service and other business operations open to the public,
5. by visitors in libraries and archives,
6. in vocational training and general adult education,
7. by visitors in cultural and leisure activity institutions and
8. in situations and locations other than those listed in the numbers 1-7 if this is required by a sector-specific hygiene concept according to § 6(3) or a legal ordinance issued according to § 25.

(3) A community mask must be worn outdoors:

1. in public spaces
 - a) at markets,
 - b) in queues,
 - c) on train platforms and at public transport stops,
 - d) in areas listed in Appendix to this Ordinance in the time period between 6 a.m. until midnight and
 - e) in the outdoor areas of cultural and leisure activity institutions;

this shall not apply when using vehicles outside pedestrian areas; subsection 1 numbers 1 and 2 shall apply to the use of enclosed vehicles; and
2. by participants at outdoor assemblies in accordance with the provisions of § 10(2).

Each person is also required to wear a community mask outdoors where the minimum distance according to § 3(1) sentence 1 can typically not be maintained, especially on shopping streets and other crowded streets and plazas.

(4) The obligation to wear a community mask or a medical face mask, including an FFP2 mask, shall not apply to

1. children up to the age of six,
2. persons who cannot wear a community mask or medical face mask due to a health impairment, chronic illness or disability, as certified by a physician,
3. persons whose use another device to reduce the spread of droplet particles that at least fulfil the requirements set down in § 1(5) if they fall under subsection 1 or the requirements set down in § 1(6) if they fall under subsection 2 such that the spread of potentially infectious droplets and aerosols is reduced,
4. deaf persons and the hard of hearing as well as persons who communicate with them, as well as persons accompanying them,
5. for customers in handicraft and service operations in the area of bodily hygiene for the duration of the service which takes place near the face or
6. if additional exceptions are provided for in a sector-specific hygiene concept in accordance with § 6(3) or a legal ordinance issued on the basis of § 25.

§ 5

Documentation of attendance

(1) The persons responsible for

1. events,
2. canteens,
3. hotels,
4. companies offering close-contact services,
5. the practice of sport in covered sport facilities including indoor swimming pools, rooms used for sport and for sport-related activities as well as sport outdoors according to § 19,
6. state, private and denominational universities for event rooms in which on-site courses are held,
7. state, private and confessional universities for course rooms in which on-site courses are held,
8. retail stores if they are permitted to open according to § 15(1) sentence 1 and
9. other institutions stated in a sector-specific hygiene concept in accordance with § 6(3) or a legal ordinance issued on the basis of § 25,

must document attendance in closed rooms and if, in the case of number 2, it is not only to pick up food or beverages. Those responsible for events must also document attendance if the event takes place wholly or partly outdoors. Those responsible for canteens must also keep documentation of attendance where food or drink is served outdoors or is served for consumption by self-service in the approved outdoor dining area. The requirement to document attendance may also be fulfilled using digital applications, including those that enable automated data collection without the person responsible being involved in the data collection process.

(2) The attendance list may only be used to execute infection control laws, especially for contact tracing, and must contain the following information:

1. Name and surname,
2. Phone number,
3. Borough or municipality of the place of residence or permanent residence (may be omitted when using digital applications),
4. Full address and email address, if one exists,
5. Time the person was present and
6. Seat or table number, if applicable (may be omitted when using digital applications).

The attendance list pursuant to sentence 1 is to be stored or saved in a place not accessible to third parties for a period of four weeks after the end of the event or service. The competent authorities must be given access to the attendance list on request to control the obligations according to subsections 1, 3 and 4. It must also be handed over or otherwise made available in an appropriate manner to the competent authority on request if it is established that one of the participants was ill, suspected of being infected, infectious or a virus-shedder within the meaning of the Infection Protection Act at the time of the event, visit or service. After the retention period has expired, this attendance list must be deleted or destroyed. Sentences 2 to 4 shall not apply if attendance is documented by the users by means of a digital application that does not allow the responsible person(s) to adhere to these provisions for technical reasons.

(3) The information in accordance with subsection 2 sentence 1 must be provided completely and truthfully. This also applies in the case of registration in a digital application for the users to document attendance.

(4) The persons responsible referred to in subsection 1 must deny access or permission to remain to any person present who provides incomplete or manifestly false information. If attendance is documented using a digital application that does not allow the responsible person(s) to adhere to these provisions for technical reasons, sentence 1 applies with the condition that the responsible person(s) must ensure that the digital application is used properly.

(5) Subsections 1 to 4 shall not apply to events pursuant to § 9(3) numbers 2 and 3.

§ 6

Protection and hygiene plan

(1) Those responsible for events in companies and other establishments, in particular businesses, restaurants, hotels, sales outlets, cultural and educational establishments, foundations, information and advice centres, educational offers, integration measures under the Social Code, publicly funded establishments, projects and measures, as well as for clubs, sports facilities, hospitals, doctors' practices, care facilities including outpatient care services and offers financed by fees and grants shall draw up an individual protection and hygiene plan in accordance with the specific requirements of the service, program or event and submit it to the competent authority on request. The persons responsible according to sentence 1 must ensure that the protective measures included in the protection and hygiene plan are adhered to. Notwithstanding sentence 1, the obligation to create an individual protection and hygiene concept and to present it on request applies to private events and gatherings as described in § 9(7) with more than 20 persons present at the same time.

(2) When creating the protection and hygiene plan, the Robert Koch Institute's relevant recommendations for infection protection in their respective version and the specifications of the respective occupational health and safety authorities must be taken into account, and the provisions of this Ordinance and sector-specific ordinances issued based on § 25 are to be observed. The main objectives of the protective measures to be taken are reducing contacts, complying with the minimum distance of 1.5 metres and the maximum number of persons permitted for the respective area, controlling access and avoiding queues as well as sufficiently airing out enclosed spaces. Another essential objective of the protective measures is to ensure contact tracing is possible using appropriate measures. Notices stating the regulations for maintaining distance and hygiene must be posted so that they are clearly visible. (3) The Senate Department responsible in each case can, in agreement with the Senate Department responsible for health, set down a sector-specific framework hygiene policy that regulates details on the requirements for the protection and hygiene concept according to subsection 2, including provisions on threshold limits and access and visiting regulations.

(3) The Senate Department responsible in each case can, in agreement with the Senate Department responsible for health, set down a sector-specific framework hygiene policy that regulates details on the requirements for the protection and hygiene concept according to subsection 2, including provisions on threshold limits and access and visiting regulations.

(4) Subsections 1 to 3 shall not apply to events pursuant to § 9(3) numbers 2 and 3.

§ 6a Testing requirement

(1) Employers are required to offer a free test regularly, at least once per week, for an infection with the coronavirus SARS-CoV-2 using a point-of-care (PoC) antigen test, including self-tests carried out under supervision, and this test must be organised by the employer.

(2) Employers are required to issue proof of the test result upon request. § 6b(2) applies *mutatis mutandis*. Employees who have direct contact with customers or guests are required to take part in the offer described in subsection 1 and to retain the proof of test issued for four weeks.

(3) Self-employed persons who have direct contact with customers or guests as part of their professional activities are required to be tested regularly, at least once per week, for an infection with the coronavirus SARS-CoV-2 using a point-of-care (PoC) antigen test and to retain the proof of test issued for four weeks.

(4) Subsections 1 to 3 shall only apply if sufficient tests are available and it is reasonable for them to be procured.

§6b

Proof of a negative test for an infection with the coronavirus SARS-CoV-2

(1) If it is required by this Ordinance that persons must have tested negative for an infection with the coronavirus SARS-CoV-2, this requirement is to be fulfilled as follows:

1. The person can permit a point-of-care (PoC) antigen test to be carried out on-site and this shows a negative test result, or
2. Under the supervision of the person responsible or a person charged with supervising the test, to carry out a point-of-care (PoC) antigen self-test for an infection with the coronavirus SARS-CoV-2 and this shows a negative test result after being carried out properly, or
3. The person shows written or electronic proof according to subsection 2 of a negative result for a current point-of-care (PoC) antigen test or self-test that has been carried out the same day to the person responsible or a person charged with the task,
4. The person shows written or electronic proof according to subsection 2 of a negative result for a current PCR test that is no more than 24 hours old to the person responsible or a person charged with the task,

In the case of sentence 1 numbers 1 and 2, the person getting a test has the right to have a certificate of the test result issued by the person responsible or the person charged with supervising or carrying out the test. In the attendance documentation according to § 5, it must be noted that the test was carried out if the documentation is not carried out using a digital application that does not permit the person responsible to adhere to this requirement.

(2) The certificate of a negative test result for a current point-of-care (PoC) antigen test or PCR test for an infection with the coronavirus SARS-CoV-2 must include at least the date and time the test was carried out, the name of the person tested and the business/authority that carried out the test. The certificate should otherwise correspond to the template provided by the Senate Department responsible for health. The certificate as described in subsection 1, sentence 1, numbers 2 and 3 in relation to a point-of-care (PoC) antigen test for an infection with the coronavirus SARS-CoV-2 for self-use (self-test) may only be issued by an authority charged with doing so by the Senate Department responsible for health.

Part 2

Further Hygiene and Protection Rules for Particular Sectors

§ 7

Singing in enclosed rooms

Singing together in enclosed rooms shall only be permitted for professional reasons or as part of religious worship if the hygiene and infection protection standards laid down in a general

hygiene concept according to § 6(3) or a legal ordinance from the Senate Department responsible for culture issued based on § 25 are observed. Sentence 1 shall not apply to persons listed in § 2(2).

§ 7a Workplaces

- (1) Commercial and public employers must ensure that a maximum of 50 percent of established office workstations in a workplace according to § 1(1) ArbStättV are used at the same time.
- (2) Subsection 1 does not apply to office workstations that must be occupied out of absolute necessity for client or patient contact related to the work tasks, for answering emergency calls or calls reporting problems, for monitoring operational plants, for ensuring the functioning of the legal system, law enforcement and penal institutions, and core tasks of public administration, and for carrying out vocational education according to § 1 BBiG.

§ 8

Serving, distribution, and sale of alcoholic beverages; consumption in public places

- (1) Serving, distributing, and selling alcoholic beverages shall be prohibited between 11 p.m. and 6 a.m. of the following day. The sale and distribution of alcoholic beverages intended or suitable for immediate consumption according to their form of presentation, especially in glasses, cups or disposable beverage containers, are prohibited at all times. Sentence 2 shall not apply to commercially closed beverage bottles, cans or bags.
- (2) The consumption of alcoholic beverages in parking lots and public parks is prohibited, with public parks being defined as in the Outdoor Spaces Act of November 24, 1997 (GVBl. P. 612), last amended by § 15(1) of the Act from September 29, 2004 (GVBl. P. 424), in the currently valid version.

§ 9

Events, maximum number of persons

- (1) Outdoor events with more than 50 persons present at the same time are prohibited.
- (2) Events in closed rooms with more than 20 persons present at the same time are prohibited.
- (3) Subsections 1 and 2 shall not apply to
 1. religious and cultic events according to Article 4 of the Basic Law and Article 29(1) of the Berlin Constitution, these must be reported to the responsible regulatory office at least two working days before the planned event if more than ten participants are expected, unless the religious and ideological communities have established a hygiene concept that complies with the current hygiene framework concept of the Senate Department responsible for culture or is more strict than the provisions in that concept,

2. assemblies according to Article 8 of the Basic Law and Article 29(1) of the Berlin Constitution,
3. events, including meetings, of the European Parliament and its groups and committees, the German Bundestag and its groups and committees, the Bundesrat and its committees, the House of Representatives and its groups and committees, the European Council, the Council of the European Union, the European Commission, the Federal Government, the Senate of Berlin, the Council of Mayors and its committees, the Berlin Constitutional Court, the borough assemblies and their groups and committees or those of foreign diplomatic missions, the judicial organs, the organs, bodies and authorities of the European Union, of international organisations, of the Federal Government and the Länder, and of other such bodies and institutions who carry out public legal tasks,
4. political party meetings and meetings of electoral communities, if they are required by the Political Parties Act (*Parteiengesetz*) in the version published on January 13, 1994 (BGBl. I S. 149), last amended by Artikel 13 of the Ordinance from June 19, 2020 (BGBl. I S. 1328), as amended, or are carried out to prepare for participation in general elections,
5. events according to § 17(2) of the Works Constitution Act (*Betriebsverfassungsgesetz*) in the version published on September 25, 2001 (BGBl. I p. 2518), as last amended by Article 6 of the Act of May 20, 2020 (BGBl. I p. 1044), as amended, and
6. sessions of works councils, general works councils and group works councils according to the Works Constitution Act (*Betriebsverfassungsgesetz*) as well as the staff council, general staff council and main staff council according to the Staff Representation Act (*Personalvertretungsgesetz*) in the version published on July 14, 1994 (GVBl. p. 337; 1995 p. 24), last amended by Article 3 of the Act of December 2, 2020 (GVBl. p. 1430), as amended.

(4) At events, the seating and arrangement of tables shall be such that a minimum distance of 1.5 metres is maintained between persons not covered by the exception in § 2(2) or such that adequate protection against infection can be ensured by other protective measures or protective devices to reduce the spread of potentially infectious droplet particles. At outdoor events, the minimum distance according to sentence 1 may be reduced provided that protection against droplet infections and aerosols is ensured. For points of sales and food and beverages, § 15(1) and (4) and § 16(2) apply mutatis mutandis.

(5) By way of derogation from subsections 1 and 2, concerts, theatre, opera and concert performances, musical and artistic performances before a physically present audience, including dance performances and other events of a cultural nature are prohibited.

(6) By way of derogation from subsections 1 and 2, events that are of a recreational or entertainment nature are prohibited.

(7) By way of derogation from subsections 1 and 2, events or gatherings with family, acquaintances or friends (private events) are only permitted with the persons mentioned in § 2(2) or with members of one other household; the maximum number of persons present at the same time may not exceed five, whereby children who have not yet turned 14 years of age are not counted toward the maximum number of persons.

(8) For burials and funerals at cemeteries or in funeral parlours, subsection 3 number 1 applies *mutatis mutandis*. By way of derogation from subsection 7, funerals and celebrations on the occasion of a funeral that are not included in sentence 1 are permitted outdoors with up to 50 persons present at the same time and in enclosed rooms with up to 20 persons present at the same time. The persons required for the performance of the funeral and the celebrations on the occasion of a funeral shall not be taken into account in the calculation of the upper limit for persons in sentence 2.

(9) The Senate Department responsible for the respective issue may permit exceptions from the provisions of this Ordinance to regulate the permissibility of the event and the presence and number of attendees in agreement with the Senate Department responsible for health in justified individual cases to test hygiene, protection or testing policies.

(10) Only those persons who have tested negative as described in § 6b may take part in events as described in subsection 2 and subsection 3 numbers 4 to 6 with more than five persons present at the same time.

§ 10 Assemblies

(1) When holding assemblies as defined in Article 8 of the Basic Law and Article 26 of the Berlin Constitution, the minimum distance of 1.5 metres between participants must always be observed, with the exception of the persons named in § 2(2). § 3(1) sentence 2 shall not apply. The person organising the assembly must draw up an individual protection and hygiene plan, which must specify the measures to be taken to ensure the minimum distance and the hygiene rules are observed, such as wearing a community mask or a medical face mask, if applicable, or the prohibition of participants chanting together during the assembly, and to ensure the number of participants permitted according to the usable area of the place of assembly when the meeting is held is not exceeded. The assembly authority may demand the presentation of this protection and hygiene plan from the person organising the assembly and obtain an evaluation of the concept in terms of infection protection from the competent health authority. When carrying out the assembly, the organiser must ensure that the protection and hygiene plan is followed.

(2) A community mask must be worn by participants in outdoor assemblies in accordance with Article 8 of the Basic Law and Article 26 of the Berlin Constitution unless the assembly is carried out as a march but only uses motor vehicles; in this case, § 4(1) number 2 applies *mutatis mutandis*. § 4(3) remains unaffected. § 19(1) number 1 of the Berlin Freedom of Assembly Act (*Versammlungsfreiheitsgesetz Berlin*) from February 23, 2021 (GVBl. S. 180) does not preclude the wearing of a medical face mask or a community mask to protect against infection.

(3) Only persons who have tested negative as described in § 6b may take part in assemblies with more than five persons present at the same time.

§ 11
Hospitals

Authorised hospitals may carry out planned admissions, operations and treatments provided that reservation and availability requirements are met and that the return to a crisis mode can be implemented at short notice at any time if the pandemic situation intensifies.

§ 12
Integration assistance, social assistance, assistance for the homeless

(1) Service providers with agreements based on § 123 of Book Nine of the Social Code from December 23, 2016 (BGBl. I, p. 3234), last amended by Article 3(6) of the Act from October 9, 2020 (BGBl. I, p. 2075), as amended, or § 75 of Book Twelve of the Social Code - Social Assistance - (Article 1 of the Act from December 27, 2003, BGBl. I, p. 3022, 3023), last amended by Article 4 of the Act from December 21, 2020 (BGBl. I, p. 3096), as amended, are authorised to occupy their personnel with tasks others than those described in the service agreement in order to mitigate dangers to staff and those receiving services as long as the tasks are related to the content of their services. It must be ensured that all persons receiving services are given basic, essential care and supplies.

(2) The daytime and overnight assistance programs for homeless persons shall remain open to ensure adequate care for those affected.

§ 13
Childcare centres, universities, education

(1) Childcare centres are to run with restricted regular operations. If organisationally possible, the care must be carried out in separate and stable groups. If necessary to achieve this goal, then due to limited resources, in particular personnel, the hours of care may be reduced in co-ordination with the supervisory authority according to § 45 of the Eighth Social Code. The Senate Department responsible for youth and family can set down more details on how the care is to be carried out under consideration of the infection situation. The extent to which there is a requirement to wear a medical or community mask in the childcare offers is decided by the responsible Senate Department as part of a template hygiene concept that will be made available to the public.

(2) As part of alternative organisation of care for children, it shall be permissible to exceed the maximum number of persons permitted according to § 2(4) and § 9(7) if it is the reciprocal, unpaid, non-commercial supervision of children under 12 years of age in fixed, family or neighbourhood-organised care communities comprising children from no more than two households.

(3) State, private and denominational universities, including their institutions, are prohibited from opening to the public. Universities are to start their teaching activities in the summer se-

mester 2021 using online formats rather than face-to-face teaching. Practical formats that cannot be carried out digitally and examinations can be carried out in a face-to-face format in compliance with the basic obligations and the protection and hygiene rules according to Part 1 and the particular regulations valid at the respective universities. In particular, sentence 3 includes the following:

1. practical courses, especially those that require specialised laboratory or working rooms at the universities,
2. practical lessons in medical-clinical courses of study,
3. artistic lessons,
4. practical sports exercises and
5. face-to-face formats for the introduction of first-year students.

In practical formats according to sentence 4, the maximum number of 25 participating students may not be exceeded. In justified cases, the universities may grant limited access to persons in derogation of sentence 1. Sentence 1 shall not apply to the Botanical Garden. Academic libraries may only offer lending and online services.

(4) Subject to subsections 6 and 7, public schools and independent schools, including second-chance educational institutions and extracurricular and supplementary support and supervision services, may not provide any face-to-face teaching or supervision. Deviations from sentence 1 for the purpose of a resumption of face-to-face teaching and supervision adapted to the infection situation shall be determined by the Senate Department responsible for education by legal ordinance in accordance with § 25(1) and (2).

(5) *Volkshochschulen* and other adult education centres, music schools, youth art schools, youth traffic schools, gardening schools as well as independent institutions within the meaning of the Schools Act and similar education institutions may not provide any face-to-face teaching or supervision, subject to subsection 6. The prohibition in sentence 1 shall not apply to individual lessons for persons who would like to start studying in the respective area in 2021, who would like to prepare for an examination in a corresponding subject or who would like to participate in corresponding national or international competitions.

(6) Examinations in accordance with the Schools Act and performance assessments at public schools and alternative schools may be carried out according to the Senate Department responsible for schools provided that a distance of at least 1.5 metres between the participants is guaranteed. Degree certificates may be issued by public schools and alternative schools. Examinations at adult education centres (*Volkshochschulen*) and other adult education institutions may be conducted, provided that a distance of at least 1.5 meters is maintained between the persons present and that a medical face mask is worn.

(7) Schools may offer limited services for emergency care, especially for children of parents who work in an area necessary for the maintenance of public life. The Senate Department responsible for schools decides on the selection of facilities and those who have a right to use the emergency care services.

§ 14
Vocational training

(1) Examinations in vocational education and training, in particular examinations pursuant to the Vocational Training Act (*Berufsbildungsgesetz*) in the version promulgated on May 4, 2020 (Federal Law Gazette I p. 920) and the Skilled Crafts Regulation (*Handwerksordnung*) in the version promulgated on September 24, 1998 (Federal Law Gazette I p. 3074; 2006 I p. 2095), as last amended by Article 21 of the Act of December 22, 2020 (Federal Law Gazette I p. 3256), as amended, as well as other examinations in the field of initial, continuing and further vocational education and training may be conducted in face-to-face form, subject to compliance with the basic obligations and the protection and hygiene rules of Part 1. Oral, written and practical examinations may be conducted face-to-face, including sport and musical examinations.

(2) To avoid physical social contacts, the persons responsible for vocational training programs are required to primarily carry out teaching in alternative forms, not face-to-face, if this is possible and reconcilable with the learning objectives. If programs are carried out face-to-face, it must be ensured that the provisions in this Ordinance are upheld.

(3) Subsection 2 shall apply *mutatis mutandis* to measures to promote integration into the labour market.

§ 15
Retail shops, markets

(1) Retail shops within the meaning of the Berlin Shop Opening Act (*Berliner Ladenöffnungsgesetz*) of November 14, 2006 (GVBl., p. 1045), last amended by the Act from October, 2010 (GVBl., p. 467), as amended, may only open for customers who have tested negative as described in § 6b. For opening in accordance with sentence 1, the guideline is a maximum of one customer per 40 square metres of sales floor, and it must be ensured that digital contact tracing can be carried out. Sentences 1 and 2 do not apply to retail shops for food and beverages, tobacco products, writing supplies, newspapers, magazines, books and products necessary to care for animals, pharmacies, establishments with medical supplies and hearing and sight aids, drugstores, health food shops, petrol stations, pick-up and delivery services, weekly markets limited to products listed above, bicycle and car repair shops.

(2) Sales outlets pursuant to subsection 1 may not open on Sundays and public holidays pursuant to § 6(1) and (2) of the Berlin Shop Opening Act. § 4 and § 5 of the Berlin Shop Opening Act remain unaffected.

(3) Selling non-food products with the exception of fuel for heating may not be expanded beyond that sold on December 15, 2020.

(4) When opening retail shops, department stores and shopping centres (malls) to the public, under the condition of subsection 1 sentence 1, a guideline for the maximum permissible number of customers according to the sales area and business space applies for controlling access

and ensuring a minimum distance can be maintained. For shops with a sales area of up to 800 square metres, a guideline of a maximum of one customer per 10 square metres of sales area applies. For shops with a total sales area of 801 square metres or more, a guideline of no more than one customer per 10 square metres of sales area applies to a sales area of 800 square metres and no more than one customer per 20 square metres of sales area in excess of 800 square metres. For shopping centres, the respective total sales area is decisive. If the size of the sales floor or business space is less than 20 sqm, a maximum of one customer may be admitted at a time. Incentives for staying in the business are not permitted.

(4a) Operators of department stores and shopping centres (malls) must organise testing possibilities for an infection with the coronavirus SARS-CoV-2 using a point-of-care (PoC) antigen test, including self-tests for use with supervision, for visitors to the department stores and shopping centres.

(5) Fairs, art and second-hand markets (flea markets), special markets and public festivals are prohibited.

§ 16

Gastronomy

(1) Restaurants within the meaning of the Restaurant Act (*Gaststättengesetz*, GastG) in the version published on November 20, 1998 (BGBl. I, p. 3418), last amended by Article 14 of the Act from March 10, 2017 (BGBl. I, p. 420), as amended, and canteens are prohibited from opening to the public. They may offer food and beverages for pick-up or delivery, subject to § 8(1). For pick-up, appropriate precautions must be taken to control how the process is carried out and avoid too many people gathering.

(2) If it is not otherwise possible to provide employees with adequate food supplies, food and beverages may also be offered in canteens for consumption on the spot. The seating and tables must be arranged such that a minimum distance of 1.5 metres is maintained between people who do not fall under the exception in § 3(2); no persons may be present within this distance. No persons are allowed to stay within the minimum distance area. An enhanced cleaning and disinfection schedule must be ensured. It is not permitted to sell or give food or beverages to guests not belonging to the respective company under any circumstances.

§ 17

Tourist offers, accommodation

(1) Excursions within the meaning of the Public Transport Act (*Personenbeförderungsgesetz*) in the version published in August 8, 1990 (BGBl. I, p. 1690), last amended by Article 10 of the Act from December 3, 2020 (BGBl. I, p. 2694), as amended, city sightseeing tours, boat excursions and similar offers for tourist purposes are prohibited.

(2) Overnight stays in hotels, tourist accommodation, holiday homes and similar facilities are prohibited and may not be offered by the operators of such facilities. Exceptions are permitted for overnight stays for business trips and for necessary personal reasons. Before concluding a contract, the operators of the facilities named in sentence 1 must inquire about the purpose of the rental or accommodation and document this together with the recorded personal data of the guest. Guests must provide complete and truthful information in this regard.

§ 18 Services

(1) Personal care service industries such as hairdressers, beauty parlours, massage parlours, tattoo parlours and similar establishments as well as tanning studios may open to the public or offering their services, if only those customers are serviced who have made an appointment in advance or electronic contract tracing is ensured. There must be at least 2 metres space between the chairs for clients and no client may stay in this space; waiting clients may not wait within the establishment; the other general protection and hygiene provisions in this Ordinance remain unaffected. The services may only be provided to persons who have tested negative as described in § 6b.

(2) Subsection 1 does not apply to medically necessary treatments, in particular physical therapy, ergotherapy, logotherapy, podology, foot care, and alternative practitioners.

(3) Prostitution facilities within the meaning of the Prostitute Protection Act (*Prostituiertenschutzgesetz*) of October 21, 2016 (BGBl. I, p. 2372), amended by Article 7 of the Act from November 30, 2020 (BGBl. I, p. 2600), are prohibited from opening to the public, and prostitution services are prohibited from being offered outside of the facilities. The provision and use of sexual services with physical contact and erotic massages are prohibited.

(4) Driving schools, boating schools, flying schools and similar institutions may open to the public or offer their services,

1. if the individual protection and hygiene concept for the company includes a testing policy in which personnel who teach are tested regularly, at least once a week, for the SARS-CoV-2 coronavirus using Point-of-Care (PoC) antigen tests and this testing is organised by the store owner and

2. the test offer and result of tests carried out are documented by the person responsible in the respective company.

The other general protection and hygiene regulations set down in this Ordinance are not affected by these provisions.

§ 19
Sports

(1) Subject to sentence 2, sport may only take place alone or with a maximum of five persons from no more than two households without contact and in compliance with the distance regulations according to § 3(1) sentence 1. The restriction of sentence 1 shall not apply to the following groups of persons:

1. for the group of persons referred to in § 2(2), although if additional persons also join them, then the restrictions according to sentence 1 apply,
2. for federal and state cadre athletes, professional leagues and professional sportsmen and sportswomen,
3. for medically prescribed rehabilitation sport or medically prescribed functional training within the meaning of § 64(1) numbers 3 and 4 of Book Nine of the Social Code in fixed groups of up to ten persons plus one person in charge of the exercise; in cases of particular hardship to be justified in the individual case, the participation of further persons is permitted if this is absolutely necessary to enable the participants to participate in rehabilitation sport or functional training and
4. for children up to and including 12 years of age if the sport takes place outside in set groups of a maximum of 20 persons in addition to the supervising person.

Before starting the sport, the responsible persons must point out the necessity of complying with the protection and hygiene concept according to § 6(1) and to ensure its implementation. Regulations governing sport at public schools and independent schools, at vocational training institutions and as a study-related subject taught at universities and as professionally required sports at state institutions shall take precedence over this subsection and subsection 2.

(2) The practice of sports in covered sports facilities, gyms, dance studios and similar facilities shall be permitted only to the extent that it is necessary

1. for the sport activities of the group of persons named in subsection 1 sentence 2 number 2,
2. for equestrian sports to the extent that is absolutely necessary from an animal protection point of view,
3. for therapeutic treatments and uses in accordance with subsection 1 sentence 2 number 3.

Otherwise, it is prohibited.

(3) Professional sport competitions in the national and international leagues and similar professional competitive systems are permitted, provided that they take place within the framework of a usage and hygiene concept made by the respective sports association. Spectators are prohibited. Sentence 2 shall not apply to the persons required for the operation of the sport.

(4) The practice of sports in swimming pools is permitted exclusively for federal and state cadre athletes, professional sportsmen and sportswomen, for sport as a teaching subject at public schools and independent schools, at vocational training institutions, as a study-related teaching

activity at universities, for training lifeguards by state-recognised aid organisations, as professionally required sports at state institutions, for therapeutic treatment and for use according to subsection 1 sentence 2 number 3. The use of outdoor swimming pools and beach pools is prohibited.

§ 20 Cultural facilities

(1) Cinemas, theatres, opera halls, concert halls and cultural event sites, whether publicly or privately owned, are prohibited from being open to the public. Libraries may lend media. § 9(9) remains unaffected.

(2) Museums, galleries and memorial sites may open to the public if visitors made an appointment in advance. To control access and ensure the minimum distance is maintained, a guideline applies for the maximum number of visitors permitted for the exhibition or operating space of a maximum of one visitor per 40 square metres of exhibition or operating space. The facilities may only be attended by visitors who have tested negative as described in § 6b.

§ 21 Recreational facilities

- (1) Dance clubs and similar businesses within the meaning of the Trade Regulation Act (*Gewerbeordnung*) in the version published on February 22, 1999 (BGBl. I, p. 202), last amended by Article 3 of the Act from January 18, 2021 (BGBl. I, p. 2), as amended, are prohibited from being open to the public.
- (2) Saunas, steam baths, thermal baths and similar facilities must remain closed. Sentence 1 also applies to corresponding areas in accommodation facilities and similar establishments.
- (3) Amusement venues as detailed in the Building Utilisation Ordinance (*Baunutzungsverordnung*) in the version published on November 21, 2017 (BGBl. I, p. 3786), amusement arcades, casinos, betting shops and similar establishments are prohibited from being open to the public.
- (4) To control access to enclosed spaces in the Berlin Zoo, including the aquarium, the Berlin-Friedrichsfelde Zoo and the Berlin Botanical Garden, to ensure the minimum distance can be maintained, a guideline applies for the maximum number of visitors for the surface area on which visitors are permitted of a total of one visitor per 40 square metres of surface area on which visitors are permitted.

Part 3 Quarantine Measures

§ 21a Quarantine at home for persons who have tested positive

- (1) Persons who become aware that a point-of-care (PoC) antigen test, including ones which are meant for self-testing, that they have taken shows a positive result for infection with the coronavirus SARS-CoV-2 are obligated to immediately arrange for a test using nucleic acid for the coronavirus SARS-CoV-2 (PCR test) to confirm the result of the PoC antigen test, to immediately and directly go to their primary or secondary residence or other accommodation which allows for isolation after becoming aware that the PoC antigen test is positive, and to isolate themselves there at all times for a period of a maximum of fourteen days until they have the result of the test taken using nucleic acid for the coronavirus SARS-CoV-2; for the purpose of the PCR test, the person may leave the location in which they are isolating. The persons described in sentence 1 are not permitted to receive visitors during this period who do not belong to their household.
- (2) Persons who become aware that a test they took using nucleic acid for the coronavirus SARS-CoV-2 (PCR test) is positive are obligated to immediately and directly go to their primary or secondary residence or other accommodation which allows for isolation after becoming aware that the test is positive, and to isolate themselves there at

all times for a period of at least fourteen days and until a negative point-of-care (PoC) antigen test or a PCR test has been carried out after this period. The persons described in sentence 1 are not permitted to receive visitors during this period who do not belong to their household. For the period of isolation, the persons included in sentence 1 are subject to observation by the responsible public health office.

- (3) Additional measures of the responsible public health office or those based on a borough's general ordinances on isolation remain unaffected.
- (4) The obligation to report infections according to the Infection Protection Act remains unaffected.

§ 22

Domestic quarantine for incoming and returning travellers from abroad; observation

(1) Persons who enter the state of Berlin by land, sea, or air from another country and who, at any time within the last ten days before entering the state of Berlin, were in an area defined as a risk area at the time of entry in § 2(17) of the Infection Protection Act as an area with an increased risk of infection with the coronavirus SARS-CoV-2 are obligated to go directly to their own home or second residence or other accommodation that allows for isolation immediately after entry and to remain there without interruption for a period of ten days after entry; this shall also apply to persons who first entered another state of the Federal Republic of Germany. During this period, the persons referred to in the first sentence of sentence 1 shall not be permitted to receive visits from persons not belonging to their household. Immediate transit by a direct route without overnight stay in a risk area shall not be considered a stay within the meaning of sentence 1. For persons who, within the ten days preceding their entry, have stayed in a virus-variant area according to § 3(2) sentence 1 number 2 of the Coronavirus Entry Ordinance from January 13, 2021 (eBAnz. AT 13.01.2021 V1), as last amended, sentences 1 through 3 apply with the provision that they must isolate themselves for 14 days.

(2) The persons covered by subsection 1 sentence 1 are obligated to inform the competent public health office immediately if typical symptoms of an infection with the coronavirus SARS-CoV-2 such as cough, fever, cold or loss of smell and taste occur within ten days of entry.

(3) During the period of isolation, the persons covered by subsection 1 sentence 1 shall be subject to observation by the responsible public health office.

§ 23

Exceptions to domestic quarantine

(1) The following are excluded from § 22(1) sentence 1:

1. persons who enter the Federal Republic of Germany or the state of Berlin only for the purpose of transit; such persons shall immediately leave the territory of the state of Berlin by direct route to complete the transit, or

2. for stays of less than 72 hours in the state of Berlin or in a risk area and in adherence with appropriate protection and hygiene concepts,

a) persons whose work is absolutely necessary and indispensable for the provision of vital medical care, in particular in the field of transplant medicine, and whose work is certified by the employer or contracting body,

b) persons who, for professional reasons, transport persons, goods or merchandise across borders by road, rail, sea or air,

c) persons who, in the course of their work as employees of air, ship, rail or bus transport companies or as crew of aircraft, ships, trains or buses as part of their job,

(2) Unless they are incoming travellers who, in the ten days preceding their entry, have stayed in a virus variant area as described in § 3(2) sentence 1 number 2, the following are not covered by § 22(1) sentence 1

1. for stays of less than 72 hours

a) persons entering to visit first-degree relatives, spouses or life partners who do not belong to the same household, or to exercise a common or shared custody or access right or

b) in compliance with appropriate protection and hygiene concepts, high-ranking members of diplomatic or consular services, parliaments and governments,

2. In compliance with appropriate protection and hygiene concepts, persons,

a) who have their place of residence in the state of Berlin and who, as a matter of absolute necessity, travel to their place of work, study or training in a risk area for the purpose of pursuing their profession, studies or training and return to their place of residence regularly, at least once a week (cross-border commuters), or

b) who have their place of residence in a risk area and who, as a matter of absolute necessity, travel to their place of work, study or training in the state of Berlin for the purpose of pursuing their profession, studies or training at least once a week (cross-border commuters);

the absolute necessity as well as the compliance with appropriate protection and hygiene concepts must be certified by the employer, client or educational institution.

(3) Unless they are incoming travellers who, in the ten days preceding their entry, have stayed in a virus variant area as described in § 3(2) sentence 1 number 2 of the Coronavirus Entry Ordinance, the following are not covered by § 22(1) sentence 1:

1. People whose activities are absolutely necessary for the maintenance of

a) the functioning of the health care system, in particular doctors, nurses, supporting medical staff and 24-hour care workers,

b) public safety and order,

c) maintaining diplomatic and consular relations, especially as members of diplomatic or consular services, parliaments and governments,

- d) the functioning of the judicial system,
- e) the functioning of the representation of the people, the government and administration of the Federation, the Länder and the municipalities,
- f) the functioning of the constitutional bodies of the state and Länder,
- g) the transnational fight against crime by police authorities
- h) the functioning of the institutions of the European Union and of international organisations or
- i) the functioning of critical infrastructure.

The absolute necessity must be certified by the employer, person or body requiring travel,

2. Persons entering or returning to the state of Berlin for the purpose of
 - a) visiting first or second degree relatives, spouses or life partners who do not belong to the same household, or exercising a common or shared custody or access right,
 - b) seeking urgent medical treatment or
 - c) assisting or caring for persons in need of protection or assistance,
3. Police officers returning from deployment or from similar obligations abroad,
4. Persons who travel for absolutely necessary professional reasons that cannot be postponed for up to five days, who have stayed in a risk area because of their training or studies, or who enter the federal territory; the absolute necessity must be certified by the employer, client or educational institution,
5. Persons who are accredited by the respective organising committee for the preparation, participation, implementation and follow-up of international sporting events or who are invited by a national sports federation to participate in training and courses or
6. Persons who return from a risk area as holiday returnees and who immediately prior to their return journey have carried out a test in their holiday destination with a negative result for infection with the coronavirus SARS-CoV-2, provided that
 - a) on the basis of an agreement between the Federal Republic of Germany and the affected national government on site, special epidemiological precautions (protection and hygiene concept) have been taken for a holiday in this risk area (see the website of the Federal Foreign Office at www.auswaertiges-amt.de and the Robert Koch Institute at www.rki.de),
 - b) the infection situation in the respective risk area does not prevent the non-fulfilment of the obligation pursuant to § 22(1) sentence 1 and
 - c) the Federal Foreign Office has not issued a travel warning at <https://www.auswaertiges-amt.de/de/ReiseUndSicherheit/reise-und-sicherheitshinweise> for the affected region because of an increased risk of infection.

7. Persons who, in the course of their artistic profession and on the basis of contractual obligations, take part in rehearsals or events in the state of Berlin in opera, theatre, dance theatre or concerts.

Sentence 1 shall only apply to persons who have fulfilled the obligations arising from § 3(1) sentence 1 or § 3(2) sentence 1 number 1 of the Coronavirus Entry Ordinance applicable to them and who immediately submit the medical certificate or test result on the absence of infection with the SARS-CoV-2 coronavirus to the competent public health office on request within ten days of entry. The test result in accordance with sentence 2 must be retained for at least ten days after entry.

(4) Unless they are incoming travellers who, in the ten days preceding their entry, have stayed in a virus variant area as described in § 3(2) sentence 1 number 2 of the Coronavirus Entry Ordinance, the following are not covered by § 22(1) sentence 1:

1. Persons according to § 54a of the Infection Protection Act,
2. Members of foreign armed forces within the meaning of the NATO Staff Regulations, the NATO Partnership for Peace (PfP Staff Regulations) and the Staff Regulations of the Member States of the European Union (EU Staff Regulations), who enter or return to Germany for official purposes, or
3. Persons who enter the federal territory for the purpose of taking up work for at least three weeks if, at the place where they are accommodated and where they work, operational hygiene measures and measures to avoid contact outside the working group are taken in the first ten days after their entry which are comparable to quarantine under § 22(1) sentence 1, and leaving the accommodation is only permitted in order to carry out their work; The employer shall report the commencement of work to the responsible health office before it begins and document the measures taken in accordance with sentence 1. The responsible health office shall verify compliance with the requirements pursuant to sentence 1.

(5) Besides the exemptions covered in subsections 1 to 4, exemptions from § 22(1) sentences 1 and 4 may also be granted in duly justified cases by the responsible public health office, provided that this is justified in the light of all interests involved and epidemiological considerations.

(6) Subsections 1 to 5 shall only apply if the persons named therein do not exhibit typical symptoms of infection with the coronavirus SARS-CoV-2 such as cough, fever, stuffy nose or loss of smell and taste. Persons referred to in subsection 1 number 2 and subsections 2 through 5 must consult a doctor or a test centre for a test if typical symptoms of infection with the coronavirus SARS-CoV-2 such as cough, fever, stuffy nose or loss of smell and taste occur within ten days of entry.

(7) § 22(2) shall not apply to persons who, after entering the State of Berlin, are immediately in state accommodation if the obligations according to § 22(2) are fulfilled by another agency. Accommodation in official care must be provided in compliance with the specifications of the Senate Department responsible for health and the respective responsible health office.

§ 24
Shortening domestic quarantine

- (1) If the persons entering the country have not stayed in a virus-variant area according to § 3(2) sentence 1 number 2 of the Coronavirus Entry Ordinance within the ten days preceding their arrival, isolation according to § 22(1) sentence 1 can be ended at the earliest on the fifth day after entry if the person has a medical certificate or a negative test result stating that they are not infected with the coronavirus SARS-CoV-2 on paper or in an electronic document in German, English or French and presents this immediately to the competent public health office on request within ten days of entry.
- (2) The test upon which the medical certificate or test result is based must have been conducted at least five days after entry into the Federal Republic of Germany. The test must meet the requirements of the Robert Koch Institute, which are published on the Internet at <https://www.rki.de/covid-19-tests>.
- (3) The person must retain the medical certificate for at least ten days after entry.
- (4) The isolation pursuant to § 22(1) sentence 1 shall be suspended for the time required to carry out a test or to receive a medical certificate pursuant to subsection 1.
- (5) Persons referred to in subsection 1 must consult a doctor or a test centre for another test if typical symptoms of infection with the coronavirus SARS-CoV-2 such as cough, fever, stuffy nose or loss of smell and taste occur within ten days of entry.
- (6) Subsections 1 to 5 shall not apply to persons who are in one of the categories in § 23(4) number 3.

Part 4
Authorisation to issue ordinances; transitional and final provisions

§ 25
Authorisation to issue ordinances

- (1) The responsible Senate Department for the respective matter is also authorised, in agreement with the Senate Administration responsible for health, by way legal ordinances according to § 2 sentence 1 of the Berlin COVID-19 Parliamentary Participation Act and § 32 sentence 1 of the Infection Protection Act,
 1. to issue ordinances according to § 6(3),
 2. to regulate exceptions to the requirement to maintain a minimum distance of 1.5 metres beyond those in § 3(1) sentence 2,
 3. to determine situations beyond § 4(1) and (2) in which the obligation to wear a medical face mask or a community mask
 4. as well as to determine requirements for community masks to be worn in certain situations that deviate from § 1(5),

5. to regulate exceptions to the obligation to wear a medical face mask or a community mask that go beyond § 4(3) and
6. to determine area-specific regulations for the maintenance of attendance documentation in addition to § 5(1) sentence 1, in particular also for responsible persons from facilities other than those specified in § 5(1) sentence 1.

(2) The Senate Department responsible for education is authorised, in agreement with the Senate Department responsible for health, to extend by ordinance in accordance with § 2 sentence 1 of the Berlin COVID-19 Parliamentary Participation Act and the first sentence of § 32 of the Infection Protection Act the obligation to wear a medical face mask or a community mask, which may also include areas outside enclosed spaces. It is further authorised, in agreement with the Senate Department responsible for health and in accordance with § 2 sentence 1 of the Berlin COVID-19 Parliamentary Participation Act and the first sentence of § 32 of the Infection Protection Act, to issue ordinances to impose conditions on the continued operation of schools as well as childcare facilities and day care services for children and other child and youth welfare facilities or to order their closure; this shall be without prejudice to § 13(1) and (4) and the possibility of general requirements on another legal basis for the purpose of containing the SARS-CoV-2 pandemic, such as, in particular, under § 45 of the Eighth Book of the Social Code.

(3) The responsible Senate Department for the respective matter is also authorised, in agreement with the Senate Department responsible for health, by way of legal ordinances according to § 2 sentence 1 of the Berlin COVID-19 Parliamentary Participation Act and § 32 sentence 1 of the Infection Protection Act, to regulate planned admissions, operations and treatments in accredited hospitals. It is also authorised to use legal ordinances according to § 2 sentence 1 of the Berlin COVID-19 Parliamentary Participation Act and § 32 sentence 1 of the Infection Protection Act to establish conditions and requirements, especially hygiene requirements, for hospitals as well as regulations on entering or visiting health care facilities, especially hospitals.

(4) The Senate Department responsible for nursing care is authorised to set down conditions and requirements, especially hygiene requirements, for nursing care facilities as well as regulations on entering or visiting nursing care facilities by legal ordinance according to § 2 sentence 1 of the Berlin COVID-19 Parliamentary Participation Act and § 32 sentence 1 of the Infection Protection Act. The aim should be to achieve a very high vaccination rate. Ordinance according to sentence 1 may permit exceptions from the provisions in § 7, § 9(1), § 9(2), § 9(5) and § 9(6) as well as § 19.

(5) The Senate Department responsible for social matters is authorised, in the field of integration assistance and social assistance, to use legal ordinances in accordance with § 2 sentence 1 of the Berlin COVID-19 Parliamentary Participation Act and § 32 sentence 1 of the Infection Protection Act to ensure basic provision for those entitled to benefits.

(6) The Senate Department responsible for culture is also authorised, in agreement with the Senate Department responsible for health, by way legal ordinances according to § 2 sentence 1 of the Berlin COVID-19 Parliamentary Participation Act and § 32 sentence 1 of the Infection Protection Act, to regulate hygiene and infection protection standards for singing in enclosed rooms.

(7) The Senate Department responsible for labour is also authorised, in agreement with the Senate Department responsible for health, by way legal ordinances according to § 2 sentence 1 of the Berlin COVID-19 Parliamentary Participation Act and § 32 sentence 1 of the Infection Protection Act, to regulate the following:

1. measures for hygiene and infection protection at workplaces, in work rooms and workstations as referred to in § 2(1), (3) and (4) of the Workplace Ordinance (*Arbeitsstättenverordnung*),
2. more information on the exceptions according to § 7a(2).

§ 26

Restriction of Fundamental Rights

This Ordinance restricts the fundamental rights of the freedom of the person (Article 2(2) sentence 2 of the Basic Law), the freedom of assembly (Article 8(1) of the Basic Law), the freedom of movement (Article 11(1) of the Basic Law) and the inviolability of the home (Article 13 of the Basic Law).

§ 27

Administrative Offences

(1) The prosecution of administrative offences shall be governed by § 73(1a) number 24 and subsection 2 of the Infection Protection Act and the Act on Administrative Offences (*Gesetz über Ordnungswidrigkeiten*) in the version promulgated on February 19, 1987 (Federal Law Gazette I p. 602), last amended by Article 3 of the Ordinance from November 30, 2020 (Federal Law Gazette p. 2600), as amended.

(2) Administrative offences may be punished by a fine of up to EUR 25,000 pursuant to the second half-sentence of § 73(2) of the Protection against Infection Act.

(3) It is an administrative offence within the meaning of § 73(1a) number 24 of the Infection Protection Act to deliberately or negligently,

1. in violation of § 2(3) stay in an outdoor public space with persons other than those named and no exception under § 2(3) or § 13(2) applies,
2. in violation of § 3(1) sentence 1, not observe the minimum distance of 1.5 metres to persons other than those mentioned in § 2(2) and there is no exception under § 3(1) sentence 2 or § 19,
3. in violation of § 4(1), (2) or (3) or in violation of § 10(2), not wear a community mask or medical face mask and no exception under § 4(3) or § 10(2) sentence 2 applies,
4. in violation of § 5(1), (2) or (4), not keep attendance documentation as the person responsible, not keep it or save it for a period of four weeks, not hand it over, make it accessible, or otherwise provide it at the request of the competent authority, not delete or destroy it after the retention period is over or not deny access or permission to remain to persons who

have given incomplete or manifestly incorrect information according to § 5(2) sentence 1, or not ensure that the digital applications are used properly unless an exception under § 5(1) sentence 6, § 5(4) sentence 2 or § 5(5) applies,

5. in violation of § 5(3), give incomplete or inaccurate information according to § 5(2) sentence 1, unless an exception under § 3(5) applies,
6. in violation of § 6(1), as the person responsible, not submit a protection and hygiene plan at the request of the responsible authority, unless an exception under § 6(4) exists, or not ensure the protective measures in the protection and hygiene concept are adhered to,
7. in violation of § 6(2) sentence 4, as the person responsible or in charge, does not submit a hygiene plan on request, unless an exception under § 6(4) applies,
 - 7a. in violation of § 6a(1), as an employer, not provide or organise an opportunity for testing,
8. in violation of § 7 sentence 1, sing together in closed rooms without complying with the standards of hygiene and protection against infection laid down in a framework hygiene concept or in a legal ordinance from the Senate Department responsible for culture, and no exception under § 7 sentence 2 applies,
 - 8a. in violation of § 7a(1), wilfully or negligently permit the simultaneous use of more than 50 percent of the established office workstations for employees and no exception under § 7a(2) applies,
9. in violation of § 8(1), serve, distribute or sell alcoholic beverages between 11 p.m. and 6 a.m. of the following day, or distribute or sell alcoholic beverages outside of these times that are intended or suitable for immediate consumption and no exception under § 8 sentence 3 applies,
10. in violation of § 8(2), consume alcoholic beverages in public parks or car parks,
11. in violation of § 9(1), as the person responsible for an outdoor event, not guarantee compliance with the number of participants permitted and no exception under § 9(3) or (9) applies,
12. in violation of § 9(2), as the person responsible for an event in an enclosed room, not guarantee compliance with the number of participants permitted and no exception under § 9(3) or (9) applies,
13. in violation of § 9(4), as the responsible organiser of an event, not ensure compliance with the rules on hygiene and distance,
14. in violation of § 9(5), carry out concerts, theatre, opera and concert performances, musical and artistic performances before a physically present audience, including dance performances and other events of a cultural nature and no exception under § 9(9) applies,
15. in violation of § 9(6), as the responsible organiser of an event, carry out events of a recreational or entertainment nature,
16. in violation of § 9(7) sentence 1, as the person responsible, carry out private events or gatherings with family, acquaintances or friends (private events) with persons other than those named in that provision and no exception according to § 13(2) applies,

17. in violation of § 9(7) sentence 1 participate in events or gatherings with family, acquaintances or friends (private events) with persons other than those listed and no exception according to § 13(2) applies,
18. in violation of § 9(8) sentence 2, as the person responsible for a funeral or celebration events related to a funeral, not guarantee compliance with the number of participants permitted,
 - 18a. in violation of § 9(10), participate in an event as described in § 9(2) or (3) numbers 4 to 6 with more than five persons present at the same time without having tested negative as described in § 6b,
19. in violation of § 10(1) sentences 3 and 4, as the person organising the assembly, not draw up a protection and hygiene plan or not submit this to the assembly authority at the latter's request,
20. in violation of § 10(1) sentence 5, as the person organising the assembly, not ensure compliance with the protection and hygiene plan when holding the assembly,
 - 20a. in violation of § 10(3), take part in an assembly with more than five persons present at the same time in an enclosed space without having tested negative as described in § 6b,
21. in violation of § 15(1) sentence 1, as the responsible operator, open a sales point in the meaning of the Berlin Shop Opening Act not only for customers who have booked an appointment in advance for a set period of time and no exception according to § 15(1) sentence 3 applies,
22. in violation of § 15(1) sentence 2 or § 15(4), as the responsible operator of a point of sale, a department store or a shopping centre (mall), admit more than the maximum number of persons permitted by the area of the business premises or create incentives to stay,
23. in violation of § 15(2) sentence 1, as the responsible operator of a point of sale, open on a Sunday or holiday and no exception according to sentence 2 or 3 applies,
24. in violation of § 15(5), hold fairs, art and second-hand markets (flea markets), special markets or public festivals,
25. in violation of § 16(1) sentence 1, as the responsible operator of a restaurant or canteen, open to the public and no exception according to § 16(2) applies or, in violation of § 16(1) sentence 3, not take measures to control the process of purchasing food or to avoid groups of people gathering,
26. in violation of § 16(2), as the responsible operator of a canteen, not ensure compliance with the rules on hygiene and spacing,
27. in violation of § 17(1), conduct excursions, sightseeing tours, boat excursions or similar offers for tourist purposes,
28. in violation of § 17(2) sentence 1, as the responsible operator of a hotel, accommodation facility, holiday home or similar facility, offer overnight accommodation and no exception according to § 17(2) sentence 2 applies,

29. in violation of § 17(2) sentence 3, before concluding a contract, as the responsible operator of a hotel, accommodation facility, holiday home or similar facility, not inquire about the purpose of the rental or accommodation and document this together with the recorded personal data of the guest,
30. in violation of § 17(2) sentence 4, as the guest of a hotel, accommodation facility, holiday home or similar facility, not give complete or true information,
31. in violation of § 18(1), as the responsible operator of a service company in the area of personal hygiene, serve customers who have not made an appointment in advance and no electronic contract tracing is ensured,
 - 31a. in violation of § 18(1), take advantage of services in the area of personal hygiene without having a negative test result as described in § 6b,
32. in violation of § 18(3) sentence 1, engage in the business of prostitution,
33. in violation of § 18(3) sentence 2, purchase sexual services with physical contact or erotic massages,
34. in violation of § 18(4) sentence 1, as the responsible operator of a driving school, boating school, flying school or similar facility, not ensure the protection and hygiene regulations are upheld and no exception according to § 18(6) sentence 3 applies,
35. in violation of § 19(1) sentence 1, not keep sports contactless or practice sport with more than the persons listed there and no exception under § 19(1) sentence 2 applies,
36. in violation of § 19(2), as the responsible operator of a covered sports facility, fitness or dance studio or similar facility, open it for the use of persons other than those stated in the provision,
37. in violation of § 19(3), conduct a competition without a usage and hygiene concept from the respective sports federation approved by the Senate Department responsible for sports, not observe these regulations or permit spectators,
38. in violation of § 19(4) sentence 1, as the responsible operator of a swimming pool, open it for the purposes permitted,
39. in violation of § 19(4) sentence 2, use an outdoor swimming pool or beach pool,
40. in violation of § 20(1), open cinemas, theatres, opera halls, concert halls, museums, memorials and cultural event sites, whether publicly or privately owned, to the public and no exception according to § 9(9) applies,
41. in violation of § 20(2), as the responsible operator of a museum, gallery or memorial site permit visitors to enter without previously booking an appointment or permit more than the maximum number of visitors allowed according to the exhibition or operating space to enter who have not tested negative as described in § 6b,
42. in violation of § 20(2), visit the facilities without having tested negative as described in § 6b,
43. in violation of § 21(1), as the responsible operator, open a dance performance or a similar undertaking to the public,

44. in violation of § 20(2), as the responsible operator, open a sauna, steam bath, thermal bath or a similar facility,
45. in violation of § 21(3), open to the public any amusement venues, amusement arcades, casinos, betting shops or similar establishments,
46. in violation of § 21a(1) sentence 1, not immediately arrange for a PCR test,
47. in violation of § 21a(1) sentence 1, not immediately and directly go to the primary or secondary residence or other accommodation suitable for isolation after becoming aware of the positive result of a test, unless an exception pursuant to § 21a(1) sentence 1 applies,
48. in violation of § 21a(1) sentence 1, not isolate at all times for a period of a maximum of fourteen days until the result of a test using nucleic acid for the coronavirus SARS-CoV-2 is received, unless an exception pursuant to § 21a(1) sentence 1 applies,
49. in violation of § 21a(1) sentence 2, receive visitors who do not belong to the person's own household,
50. in violation of § 21a(2) sentence 1, not immediately and directly go to the primary or secondary residence or other accommodation suitable for isolation,
51. in violation of § 21a(2) sentence 1, not isolate at all times for a period of at least fourteen days and until a negative point-of-care (PoC) antigen test or a PCR test has been carried out after this period,
52. in violation of § 21a(2) sentence 2, receive visitors who do not belong to the person's own household,
53. in violation of § 22(1) sentence 1, as a traveller entering or returning from a risk area, not immediately after entry take the direct route to his or her own home or other suitable accommodation, unless an exception pursuant to § 23(1) to (5) applies,
54. in violation of § 22(1) sentence 1, not self-isolate as a traveller entering or returning from a risk area a period of ten days after entry, unless an exception pursuant to § 23(1) to (5) or § 24 applies,
55. in violation of § 22(1) sentence 2, as a traveller entering or returning from a risk area, receive visits from persons who do not belong to his or her own household during the period of self-isolation,
56. in violation of § 22(1) sentence 2, visit a person who is subject to the obligation of self-isolation under § 22(1) sentence 1,
57. in violation of § 22(1) sentence 4, as a person entering or returning from an area with the virus variants, not isolate for a period of 14 days after entering if no exception according to § 23(1) or (5) applies,
58. in violation of § 22(2), as a person entering or returning from a risk area, fail to contact the competent public health office immediately if typical symptoms of an infection with the coronavirus SARS-CoV-2 such as cough, fever, stuffy nose or loss of smell and taste arise within ten days after arrival, unless an exception under § 23(7) applies,

59. in violation of § 23(2) number 2 or § 22(3) sentence 1 number 1 or 4, fail to issue a certificate truthfully,
60. in violation of § 23(6) sentence 2, if typical symptoms of an infection with the coronavirus SARS-CoV-2 such as cough, fever, stuffy nose or loss of smell and taste arise within ten days after arrival, fail to contact a doctor or test centre to carry out a test,
61. in violation of § 24(3), not retain a medical certificate for at least ten days after arrival,
62. in violation of § 24(5), not seek out a physician or testing centre if typical symptoms of an infection with the coronavirus SARS-CoV-2 such as coughing, fever, a stuffy nose or the loss of smell or taste occur within ten days after arrival.

§ 28
Entry into force, expiration

(1) This Ordinance shall enter into force on the day after it is announced in the Berlin Official Gazette. At the same time, the SARS-CoV-2 Infection Protection Measures Ordinance from December 15, 2020 (GVBl. p. 1463), last amended by the Ordinance of February 11, 2021 (GVBl. p. 111), shall expire.

(2) This Ordinance shall expire at the end of the day on April 18, 2021.

Berlin, 27 March 2021

The Senate of Berlin

Michael Müller
Governing Mayor

Dilek Kalayci
Senator for Health, Long-Term Care and
Gender Equality

Appendix

(to § 4(3) sentence 1 number 1 letter d)

Designation of the areas in which a mouth-and-nose covering is to be worn

I. Streets

1. Alte Schönhauser Straße in the district Mitte,
2. Bergmannstraße in the district Kreuzberg,
3. Bölschestraße in the district Friedrichshagen,
4. Friedrichstraße in the district Mitte,
5. Hermannstraße in the district Neukölln,
6. Karl-Liebknecht-Straße in the district Mitte,
7. Karl-Marx-Straße in the district Neukölln,
8. Kurfürstendamm in the districts Wilmersdorf und Charlottenburg,
9. Rathausstraße in the district Mitte,
10. Schloßstraße in the district Steglitz,
11. Sonnenallee in the district Neukölln,
12. Tauentzienstraße in the districts Charlottenburg und Schöneberg,
13. Turmstraße in the district Moabit,
14. Unter den Linden in the district Mitte,
15. Wilmersdorfer Straße in the district Charlottenburg

II. Squares

1. Alexanderplatz,
2. Bebelplatz,
3. Boxhagener Platz,
4. Breitscheidplatz,
5. Europaplatz,
6. Hardenbergplatz,
7. Hermannplatz,
8. Lausitzer Platz,
9. Leipziger Platz,

10. Olympischer Platz, if events, in particular football matches, are held there or in the Olympic stadium,
11. Pariser Platz,
12. Potsdamer Platz,
13. Rosa-Luxemburg-Platz,
14. Rosenthaler Platz,
15. Washingtonplatz,
16. Wittenbergplatz

III. Other Locations

1. Old city of Spandau,
2. Hackescher Markt,
3. Kottbusser Tor,
4. Lustgarten