



District of Rendsburg-Eckernförde

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Health Specialist Service

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General Decree

Of the district Rendsburg-Eckernförde

Your references, your letter dated

My references, my letter dated
FD 4.3

Rendsburg
23.04.2021

on supplementary measures if the 7-day incidence of 50 new infections per 100,000 inhabitants with the novel coronavirus (SARS-CoV-2) in the area of the Rendsburg-Eckernförde district is exceeded

According to §§ 28a Paragraph 1, 28 Paragraph 1 Clause 1 and 2 Infection Protection Act (IfSG) in conjunction with § 106 Paragraph 2 General Administrative Law for the State of Schleswig-Holstein (State Administrative Law - LVwG), the following general decree is issued:

1. In addition to Section 8 (1) of the Corona Control Ordinance (Corona Control Ordinance), the following rules apply to retail outlets:
 - a) Customers are only allowed to enter retail outlets after registering by providing the necessary contact details. For this purpose, the operators have to collect the date and time, first and last name, address and, if available, telephone number or e-mail address and for a period of time before admission in accordance with § 4 Paragraph 2 of the Corona Control Ordinance to be kept for four weeks.

The requirements of Section 28a (4) of the Infection Protection Act apply. The person obliged to collect data has to exclude persons from the visit who refuse to collect their contact data. Insofar as contact details are given to the person obliged to collect data, they must be truthful. The obligations from sentence 2 do not apply if the use of application software is made available by means of which contact data, the date and time of the survey and the length of stay can be recorded; the software must enable transmission to the responsible health department for a period of four weeks.

The operators of the sales outlets must take suitable measures to ensure that customers waiting in front of the shops comply with the distance regulation.

The regulations according to sentences 1 to 6 do not apply to food and feed offers, weekly markets, beverage markets, pharmacies, medical supply stores, drug



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stores, petrol stations, post offices, health food stores, baby stores, newspaper sales, pet stores, flower shops, gardeners, horticultural centers, hardware stores, bookstores and food distribution points (boards).

- b) The operators of shopping centers and outlet centers in accordance with Section 8 (3) Corona-KämpfVO, each with more than ten business premises, must take suitable measures to ensure that customers are waiting in front of the shops with regard to the traffic areas outside of retail outlets in coordination with them can comply with the distance regulation. Suitable measures are to be taken to separate the flow of visitors in different directions.
2. In addition to Section 10 (3) of the Corona Control Ordinance, the following applies: Indoor areas of leisure and cultural facilities according to Section 10 Paragraph 3 Clause 1 of the Corona Control Ordinance may only be entered after registration by providing the necessary contact details in accordance with Section 1 letter a) Clauses 1 - 6.
3. This general decree applies from Saturday, April 24th, 2021. It will be lifted on the day after next from which the seven-day incidence falls below the threshold of 50 on five consecutive working days from the day after the measures are taken.
4. The order is immediately enforceable in accordance with Section 28 Paragraph 3 in conjunction with Section 16 Paragraph 8 Infection Protection Law.
5. The general decree is based on § 28 Paragraph 1 Sentences 1 and 2 IfSG. Infringements are therefore subject to a fine according to Section 73 (1a) No. 6 IfSG.

In addition, the regulations of the Corona Control Ordinance apply.

Justification

The legal basis for the measure taken is Section 28 Paragraph 1 Clause 1 and 2 and Section 28a Paragraph 1 No. 2 IfSG.

According to this, the competent authority shall take the necessary protective measures in the event that sick people, suspects or suspects of contagion or who have been eliminated, or it emerges that a deceased person was sick, suspected of being sick or who had left the disease, the necessary protective measures, in particular those mentioned in Sections 29 to 31 IfSG to the extent and for as long as it is necessary to prevent the spread of communicable diseases; In particular, it can oblige people not to leave the place where they are or only under certain conditions or not to enter places or public places specified by it or only under certain conditions. According to sentence 2, the competent authority can restrict or prohibit events or other gatherings of people and close bathing establishments or community facilities mentioned in Section 33 IfSG or parts thereof. Necessary protective measures can in particular be the measures mentioned in Section 28a Paragraphs 1 to 3 IfSG. This includes the prohibition or restriction of the operation of leisure and cultural facilities (Paragraph 1 No. 6 and 7) and the closure and restriction of retail or wholesale trade (Paragraph 1 No. 14).

The very broad authorization to intervene in Section 28, Paragraph 1, Sentence 1 of the IfSG is not limited to measures against sick people, suspected illnesses, suspects of

contagion or people who have eliminated the disease; once there is a suspicion of infection.

When assessing the legality of the imposed restriction, the principle applicable in general police and regulatory law must be used that the greater and more serious the damage that may occur, the lower the requirements for the probability of damage occurring. This is supported by the goal of the Infection Protection Act, to enable effective hazard prevention (Section 1 (1), Section 28 (1) IfSG) as well as the fact that the diseases affected differ according to their risk of infection and their effects on people's health. In view of this, a flexible standard based on the degree of risk of the respective disease must be used. According to the assessment of the Robert Koch Institute, which is primarily appointed by the legislator in Section 4 Paragraph 1 Clause 1 and Paragraph 2 No. 1 IfSG, the risk to the health of the population is currently rated as high overall, and very high for risk groups. According to this, the situation is not comparable to a flu epidemic, but a very dynamic and serious situation.

Against the background of the current increase in the number of cases of infections with the SARS-CoV-2 virus in the entire federal territory, the state of Schleswig-Holstein and the Rendsburg-Eckernförde district and the number of diseases from COVID-19, effective measures must be taken immediately to delay the spread of the virus and to break chains of infection. Effective measures are urgently needed to ensure the long-term maintenance of the essential functions of the health system and public safety and order in the area of the Rendsburg-Eckernförde district in the interests of health protection. Large-scale interruption, containment or delay in the spread of the new pathogen is the only effective procedure to achieve these goals.

The regulations of this general decree are based on the decree of the Ministry for Social Affairs, Youth, Families, Seniors and Health of the State of Schleswig-Holstein of April 23, 2021.

In the area of the Rendsburg-Eckernförde district, infections with the SARS-CoV-2 virus have increased in recent days. Not all chains of infection are traceable. In particular, the source of infection cannot be determined. The 7-day incidence of SARS-CoV-2 cases in the period from April 18, 2021 to April 22, 2021 was over 50 new infections per 100,000 inhabitants. There is an increasingly diffuse, not clearly delimitable event with an increasing number of cases in the entire district. There is also an increased risk of a further increase in the number of cases due to the increased occurrence of the much more contagious virus variants. Containment measures are therefore required.

The obligations imposed by this general decree represent an encroachment on the fundamental rights of the citizens concerned; less drastic, equally suitable means are not evident. The reason for this is that the pandemic could still not be brought to a standstill to the extent that restrictions would have been dispensable. Rather, a district-wide, but also nationwide, continuous increase in the number of infections can be noted in the last few days and weeks. Measures restricting fundamental rights are therefore also required to contain the infection. The measures arranged here are considered to be proportionate. An obligation to collect contact data in the designated areas can effectively interrupt chains of infection and the citizens still have the opportunity to perceive public life.

Basically, good hand hygiene, compliance with coughing and sneezing rules and keeping a distance of at least 1.5 meters remain the most important and effective measures. However, in situations in which physical distancing measures are difficult to comply with,

the use of mouth and nose covers is an additional component in reducing the speed at which COVID-19 spreads in the population. Because as early as 1 to 3 days before the onset of the COVID-19 symptoms, high amounts of virus can be excreted. A partial reduction in this unnoticed transmission of infectious droplets by wearing mouth and nose covers can help slow the spread further.

Concerning No 1.) and 2.)

The order to process the contact data in accordance with Section 4 Paragraph 2 of the Corona Control Ordinance is based on the authorization from Section 28 Paragraph 1, Sentence 1, 28a Paragraph 1, Sentence 1 Number 17 and Section 16 IfSG.

Due to the risk of a covert spread of SARS-CoV-2, the measures ordered must now be taken. The measures ordered take effect at an early stage and serve to effectively follow up contacts. According to the reasons for the ordinance on Section 4 (2) sentence 4 of the Corona Control Ordinance, persons who provide contact details in a survey under this ordinance are obliged to provide truthful information. The deliberate provision of incorrect contact data constitutes an administrative offense according to Section 21 (2). The ordinance does not stipulate any compulsory use of special application software for operators. Digital contact data collection, e.g. using suitable apps, is possible. It is an additional option. However, the possibility of use must not mean that people who do not use apps cannot take advantage of the offers. When collecting the contact data, suitable measures must be taken to ensure that hygiene clearances can be maintained. The basic obligation for outlet operators to have a hygiene concept approved and implemented in Section 8 (3) of the Corona Control Ordinance, regardless of the incidence, also justifies the need to enable or ensure compliance with the distance regulation for the flow of visitors and possible queues. Queues cannot be ruled out due to the area-related capacity limitation. The regulation is intended to ensure this, should this not be expressly stipulated in the hygiene concept - otherwise the regulation has a purely declaratory effect.

Concerning No. 3.)

This general decree applies from Saturday, April 24th, 2021, 00:00 a.m.

The period of validity of the general decree is limited in accordance with Section 28b (2) IfSG to the point in time at which the seven-day incidence falls below the threshold of 50 on five consecutive working days in the respective district or urban district. The reporting figures published by the RKI are decisive for the calculation (<https://www.rki.de/inzidenzen>). Sundays and public holidays do not interrupt the counting of the relevant days.

The order is immediately enforceable in accordance with Section 28 (3) in conjunction with Section 16 (8) IfSG. Objections and actions for rescission against these measures have no suspensive effect.

The general decree is based on Sections 28a (1), 28 (1), sentences 1 and 2 of the Infection Protection Act. Infringements are therefore subject to a fine according to Section 73 (1a) No. 6 IfSG.

The general decree and its reasons can be viewed during office hours in the Rendsburg-Eckernförde district, Kaiserstraße 8, 24768 Rendsburg.

Legal Appeal

An objection can be raised against this general ruling within one month of its announcement. The objection must be submitted in writing, electronically or for recording to the district of Rendsburg-Eckernförde, Der Landrat, Fachdienst Gesundheitsdienste, Kaiserstraße 8, 24768 Rendsburg.

If a lawyer is involved or if the objection is submitted electronically by an authority, it can be sent to the special electronic mailbox of the Rendsburg-Eckernförde district via the special electronic lawyer mailbox or authority mailbox.

An objection by email is not permitted. Citizens can only object to the special electronic mailbox of the Rendsburg-Eckernförde district if a personal EGVP account (OSCI) and a qualified electronic signature are used.

The objection has no suspensive effect in accordance with Section 80, Paragraph 2, No. 3 of the Administrative Court Regulations (VwGO). An application for an order of suspensive effect can be submitted to the Schleswig-Holstein Administrative Court, Brockdorff-Rantzau-Straße 13, 24837 Schleswig, pursuant to Section 80 (5) VwGO

On behalf,

Antonia Burgmann