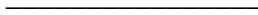




STATUTORY INSTRUMENTS.

S.I. No. 385 of 2021



HEALTH ACT 1947 (SECTIONS 31AB AND 31AD) (COVID-19)
(OPERATION OF CERTAIN INDOOR PREMISES) REGULATIONS 2021

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HEALTH ACT 1947 (SECTIONS 31AB AND 31AD) (COVID-19)
(OPERATION OF CERTAIN INDOOR PREMISES) REGULATIONS 2021

I, STEPHEN DONNELLY, Minister for Health, in exercise of the powers conferred on me by sections 5 and 31AB and 31AD (inserted by section 3 of the Health (Amendment) (No. 2) Act 2021 (No. 24 of 2021)) of the Health Act 1947 (No. 28 of 1947) and -

- (a) having regard to the matters specified in subsection (2) of section 31A, and
- (b) having consulted with the Minister for Foreign Affairs, the Minister for Housing, Local Government and Heritage, the Minister for Transport, the Minister for Enterprise, Trade and Employment, the Minister for Finance, the Minister for Justice and the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media,

hereby make the following regulations:

Citation, commencement and operation

1. (1) These Regulations may be cited as the Health Act 1947 (Sections 31AB and 31AD) (Covid-19) (Operation of certain indoor premises) Regulations 2021.

(2) These Regulations shall come into operation on the 26th day of July 2021 and shall have effect for the period beginning on that date and ending on the 1st day of September 2021.

Definitions

2. In these Regulations -

- (a) “Act of 1947” means the Health Act 1947 (No. 28 of 1947) (amended by the Health (Amendment) (No. 2) Act (No. 24 of 2021));
“personal data” has the meaning it has in section 31AL(4) of the Act of 1947;
“processing” has the meaning it has in section 31AL(4) of the Act of 1947;
“Regulations of 2021” means the Health Act 1947 (Section 31A – Temporary Restrictions) (Covid-19) (No. 2) Regulations 2021 (S.I. 217 of 2021), and
- (b) each of the following has the meaning it has in section 2 of the Act of 1947:
 - (i) “compliance officer”;

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 27th July, 2021.*

- (ii) “EU Digital Covid Certificate”;
- (iii) “indoor operator”;
- (iv) “permitted person”;
- (v) “relevant indoor premises”.

Additional conditions to be complied with by indoor operators

3. (1) The following conditions are prescribed as additional conditions under section 31AB(4)(f) of the Act of 1947 for the purposes of subsection (3)(e) of that section:

- (a) the number of permitted persons allowed on a relevant indoor premises for the purpose of consumption of food or beverages on the premises at any given time does not exceed the seating available in the premises;
- (b) food or beverages purchased for consumption on a relevant indoor premises are consumed by permitted persons only while seated in the premises;
- (c) subject to paragraph (d), the indoor operator shall record (whether in writing or electronically) -
 - (i) in respect of each person permitted or otherwise granted access to the relevant indoor premises for the purposes of consumption of food or beverages on the premises or in a professional capacity, in the course of their employment or in fulfilment of a contract for services, the fact of the status of the person as a permitted person (and the record of such status shall be by means of a box ticked or in a manner to the like effect to confirm such status), and
 - (ii) in respect of each person permitted or otherwise granted access to the premises for the purposes of consumption of food or beverages in the premises, the time of arrival of the person, or if the person is part of a group of people assigned to particular seating on the premises, the time of arrival of the first of that group of permitted persons who so arrives;
- (d) a record made in accordance with subparagraph (c) shall -
 - (i) contain no personal data of a person referred to in that subparagraph,
 - (ii) not record the nature of, or any particulars stated in, a document shown by a person to an indoor operator for the purposes of proving that the person is a permitted person,
 - (iii) be retained for a period of 28 days,
 - (iv) be made available to a compliance officer by a relevant indoor operator on request for the purposes of the performance by the officer of his or her functions, and

- (v) not be made available to any person other than in accordance with clause (iv);
- (e) each entrance that permits or otherwise grants access to the public to the relevant indoor premises is supervised at all times by a member of staff of the indoor operator;
- (f) arrangements have been put in place such that would prevent access onto the premises by a person seeking to consume food or beverages in the premises until it is confirmed by the indoor operator that the person is a permitted person;
- (g) where the indoor operator is a responsible person within the meaning of the Health Act 1947 (Section 31A – Temporary Restrictions) (Covid-19) (Face Coverings in Certain Premises and Businesses) (No. 2) Regulations 2020 (S.I. 571 of 2020) or any other regulations made under section 31A that replace or supplement those requirements, he or she has complied with his or her obligations under those regulations;
- (h) no live performance (whether a performance of music or otherwise) is permitted on the premises other than at a wedding organised in accordance with Regulation 9 of the Regulations of 2021;
- (i) no dancing is permitted on the premises.

(2) An indoor operator who breaches any of subparagraphs (a) to (i) of paragraph (1) is guilty of an offence.

(3) In accordance with section 31AB of Act of 1947, it shall not be lawful for an indoor operator to permit or otherwise grant access to a relevant indoor premises where the operator does not comply with -

- (a) the conditions referred to in paragraph (1), and
- (b) the conditions set out in paragraphs (a) to (e) of section 31AB(3) (which, for ease of reference, are reproduced in the Schedule).

Additional classes of persons prescribed as permitted persons

4. (1) The following are prescribed as permitted persons for the purposes of paragraph (d) of the definition of “permitted person” in section 2 of the Act of 1947:

- (a) in relation to a relevant indoor premises that is a relevant accommodation premises, a relevant guest;
- (b) members of the public who are permitted or otherwise granted access to a relevant indoor premises in accordance with Regulation 13 of the Regulations of 2021.

(2) In this Regulation, “relevant accommodation premises” and “relevant guest” have the meaning they have in the Regulations of 2021.

Proofs for purposes of proof of immunity

5. (1) Proof of vaccination is prescribed for the purposes of paragraph (b) of the definition of “proof of immunity” in section 2 of the Act of 1947.

(2) For the purposes of paragraph (c) of the definition of “proof of immunity” in section 2 of the Act of 1947, the following forms of proof are prescribed:

- (a) an EU Digital Covid Certificate referred to in Article 3(1)(c) of the Digital Covid Certificate Regulation;
- (b) a Covid-19 certificate that has been -
 - (i) issued by a state other than a Member State, and
 - (ii) recognised as equivalent to a certificate referred to in subparagraph (a) pursuant to an implementing act adopted by the Commission in accordance with Article 3 or Article 8 of the Digital Covid Certificate Regulation.

(3) In this Regulation -

“Digital Covid Certificate Regulation” means Regulation (EU) 2021/953 of the European Parliament and of the Council of 14 June 2021¹ on a framework for the issuance, verification and acceptance of interoperable COVID-19 vaccination, test and recovery certificates (EU Digital COVID Certificate) to facilitate free movement during the COVID-19 pandemic;

“proof of vaccination” means a record or other evidence in written or electronic form in the Irish language or the English language or, where in a language other than the Irish or English language, a translation into the Irish or English language, that contains the following information:

- (a) confirmation that the person to whom the record or evidence refers is a vaccinated person;
- (b) the date or dates on which the person was vaccinated;
- (c) the body in the state concerned -
 - (i) implementing the vaccination programme (howsoever described) on behalf of the state that administered or caused to be administered the vaccination to the person concerned, or
 - (ii) that has been authorised to issue such record or other evidence to the person concerned,

and includes -

- (I) an EU Digital Covid Certificate issued under Article 3(1)(a) of the Digital Covid Certificate Regulation), and
- (II) a HSE Covid-19 Vaccination Record;

¹ OJ No. L 211, 15.06.2021, p. 1.

“Member State” has the meaning it has in section 21 of, and Part 2 of the Schedule to, the Interpretation Act 2005 (No. 23 of 2005);

“vaccinated person” means -

- (a) in relation to a person to whom the medicinal product for active immunisation to prevent Covid-19 known as “COVID-19 Vaccine Moderna CX-024414” has been administered, that person not less than 14 days after the second dose of the medicinal product concerned has been administered to him or her,
- (b) in relation to a person to whom the medicinal product for active immunisation to prevent Covid-19 known as “Vaxzevria (previously COVID-19 Vaccine AstraZeneca) ChAdOx1-SARS-COV-2”, also known as “Covishield”, has been administered, that person not less than 15 days after the second dose of the medicinal product concerned has been administered to him or her,
- (c) in relation to a person to whom the medicinal product authorised for active immunisation to prevent Covid-19 known as “Comirnaty BNT162b2” has been administered, that person not less than 7 days after the second dose of the medicinal product concerned has been administered to him or her, or
- (d) in relation to a person to whom the medicinal product for active immunisation to prevent Covid-19 known as “COVID-19 Vaccine Janssen (Ad26.COV2-S [recombinant])” has been administered, that person not less than 14 days after the dose has been administered to him or her.

Information or proof that may be requested by indoor operator to ascertain whether or not person is permitted person

6. (1) An indoor operator may, for the purposes of establishing that a person seeking to enter a relevant indoor premises is, or a child accompanying the person is, a permitted person, in accordance with section 31AB(4)(d)(ii) of the Act of 1947, request the following information or proof:

- (a) for the purposes of paragraph (a) of the definition of “permitted person” in section 2 of the Health Act 1947, proof of immunity together with a proof of identity which enables the operator to satisfy himself or herself that the proof of immunity relates to that person;
- (b) for the purposes of paragraph (b) of the definition of “permitted person” in section 2 of the Health Act 1947, any information that would enable the operator to satisfy himself or herself that a person is under 18 years of age;
- (c) for the purposes of establishing that a member of the public referred to in Regulation 4 is a permitted person, any information as to the purpose for which the person is seeking to

access the premises that would enable the operator to satisfy himself or herself that such a person is a permitted person.

- (2) In this Regulation, “proof of identity”, in relation to a person, means -
- (a) a driving licence,
 - (b) a passport,
 - (c) student identity from a school, recognised university, higher education institution or other education and training facility or from an equivalent school, university, institution or facility outside the State,
 - (d) an age card issued by the Garda Síochána,
 - (e) Irish residence permit issued by the Department of Justice,
 - (f) a national identity card issued by a state other than the State, or
 - (g) any other official document which shall include in it a photograph of the person issued by or on behalf of the State or a state other than the State.

Additional powers of compliance officers for purposes of sections 31AD to 31AK of Act of 1947

7. (1) The following additional powers may be exercised by a compliance officer for the purposes of carrying out his or her functions under sections 31AD to 31AK of the Act of 1947 and these Regulations in relation to a relevant indoor premises:

- (a) require an indoor operator to produce to the compliance officer such books, records or other documents and to give him or her any information as the officer may reasonably require in relation to such books, records or other documents and -
 - (i) inspect and take copies of, or extracts from, any such books, records or other documents, including in the case of information in non-legible form, copies of or extracts from such information in a permanent legible form,
 - (ii) make a record whether in writing, by photography or otherwise of any book, record or other document at the relevant indoor premises,
 - (iii) remove and retain such book, record or other document for such periods as he or she reasonably considers to be necessary for the purposes of his or her functions under those sections and these Regulations;
- (b) require any such indoor operator to give to the compliance officer any information which the compliance officer may reasonably require regarding the performance of his or her functions under those sections and these Regulations;
- (c) require any such indoor operator to give to the compliance officer any other assistance or information which the

compliance officer may reasonably require regarding the performance of his or her functions under those sections and these Regulations;

- (d) require an indoor operator to state his or her name and address and, if the compliance officer thinks it necessary, to produce corroborative evidence of same.

Processing of personal data by compliance officers

8. (1) A compliance officer may, for the purposes of performing his or her functions under sections 31AD to 31AK of the Act of 1947 and these Regulations, process personal data.

(2) For the purposes of these Regulations, the relevant body that designated the compliance officer under section 31AD of the Act of 1947 shall be the data controller in relation to personal data processed by that compliance officer under paragraph (1).

(3) Subject to paragraph (4), personal data referred to in subsection (1) shall be deleted by the data controller concerned when the data is no longer required by the compliance officer concerned for the purposes of performance of his or her functions.

(4) Where personal data processed in accordance with these Regulations is required for the purposes of the prevention, investigation, detection or prosecution of a criminal offence, the data -

- (a) may be processed for as long as they are required for such prevention, investigation, detection or prosecution, and
- (b) shall be permanently deleted after they are no longer required for such prevention, investigation, detection or prosecution.

Offences

9. (1) An indoor operator shall comply with a requirement under Regulation 7 and shall not, in purported compliance with such a requirement, make a statement or provide information to a compliance officer which the operator knows is false or misleading in any material respect.

(2) An indoor operator who breaches paragraph (1) is guilty of an offence.

(3) A person shall not falsely represent himself or herself to be a compliance officer.

(4) A person who breaches paragraph (3) is guilty of an offence.

SCHEDULE

Regulation 3

Paragraphs (a) to (e) of section 31AB(3) of Act of 1947

- “(a) that an indoor operator has taken reasonable steps (including by inspecting such documents, if any, as may be prescribed in regulations under subsection (4)) to ensure that a person other than a permitted person is not admitted to a relevant indoor premises;
- (b) that an indoor operator does not knowingly permit a person other than a permitted person to access a relevant indoor premises;
- (c) that personal data, accessed by an indoor operator for the purposes paragraph (a) is not retained by the indoor operator;
- (d) that without prejudice to the requirement to adhere generally to such guidelines as are for the time being in place with respect to an indoor premises, the indoor operator adheres to such guidelines set out by certain bodies (or specific parts of such guidelines) as are prescribed by the Minister under subsection (4)(h));
- (e) that the indoor operator complies with such additional conditions as may be prescribed by the Minister under subsection (4)(f).”.



GIVEN under my Official Seal,
25 July, 2021.

STEPHEN DONNELLY,
Minister for Health.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

These Regulations provide that, with effect from Monday the 26th of July, relevant indoor premises providing indoor dining may reopen for members of the public who are permitted persons. Provisions in the Regulations also include conditions to be complied with by indoor operators; additional classes of persons prescribed as permitted persons; and proofs for the purposes of proof of immunity.

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