



General regulatory framework for seasonal workers in the agricultural sector with respect to the COVID-19 pandemic

(As of: 24/01/2022)

Preliminary remarks

- The most important nationwide measures and provisions relating to seasonal workers in agricultural and forestry holdings and horticultural enterprises are summarised below.
- These measures are intended to further contain the risk of infection and to positively impact the COVID-19 situation.
- An easy read information flyer provides seasonal workers with answers to their most frequent questions. The flyer, which has been developed in cooperation with the Office for the Equal Treatment of EU Workers, is available at bmel.de/flyer-saisonarbeitskraefte.

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1. Vaccinated, recovered or tested (3G status rule) at work

Since 24 November 2021, initially up to and including 19 March 2022, the Infection Protection Act has provided for certain **nationally standardised protective measures at work**.

Employers and employees may only enter the workplace if they are fully vaccinated, recovered or tested (**3G status rule**); this includes agricultural, forestry and horticultural holdings. Workplaces also include collective accommodation for seasonal workers. The 3G rule also applies to the transport routes between the collective accommodation and the workplace provided by the employer.

- **Evidence produced of complete vaccination protection** against the SARS-CoV-2 coronavirus will be recognised if the underlying protective vaccination meets the [requirements published](#) on the internet by the Paul Ehrlich Institute (PEI) with regard to the following criteria:
 - a) the vaccines used;
 - b) the number of individual vaccine doses required for full vaccine protection;
 - c) the number of booster vaccinations required to ensure continued full vaccine protection;
 - d) the intervals:
 - a) that must pass after vaccination for full vaccination protection to be achieved; and
 - b) that must not be exceeded between individual vaccine doses and booster vaccinations.

Proof of full vaccination must be provided in German, English, French, Italian or Spanish. Proof may be submitted in physical or digital form.

Proof can be furnished by presenting a digital European COVID certificate if the criteria for full vaccination protection published on the PEI website are met.

- For **proof of recovery** to be recognised, evidence of immunity protection against the SARS-CoV-2 coronavirus acquired through previous infection must be produced. Proof must be available in German, English, French, Italian or Spanish and in physical or digital form.

The proof must comply with [the requirements published](#) on the internet by the Robert Koch Institute with regard to the following criteria:

- the type of testing that may be used to demonstrate prior infection;
- the amount of time that must have elapsed following the test that demonstrated the prior infection; or the test certificate needed to lift the isolation that was imposed due to the prior infection;
- the maximum period of time that may have passed since the test performed to demonstrate the prior infection.

With effect from 15 January 2022, the duration of convalescent status was shortened from 6 months to **90 days**.

- If proof of 3G status is furnished by testing, **evidence of testing** can be produced by means of a negative rapid antigen test or a negative PCR test. In the case of the rapid antigen test, the sample must have been taken no more than 24 hours previously, and in the case of the PCR test at most 48 hours previously. The validity of the test certificate at the time of entering the workplace is decisive. Self-testing is only deemed sufficient for this purpose if it is carried out on site under the supervision of trained personnel. In the event of self-testing on site, the employer or the person designated by the employer must verify and document that

the persons concerned carry out the test procedure properly in accordance with the instructions for use of the test kit. Supervised self-tests only count as proof of 3G status within the establishment in which they are carried out so that the issuing of a certificate for the employees is not required.

Persons who are neither fully vaccinated nor recovered may only enter the workplace without a currently valid test in order to take advantage of a test offered immediately before starting work. Employees are only allowed to commence work if they test negative. Generally, the tests do not count towards paid working hours. Employers may, on a voluntary basis, remunerate the time spent testing.

Employers must provide their employees with information about the rules on workplace entry in accessible form. The **system of workplace entry checks** must ensure that the obligation to furnish evidence is complied with without exception. Entry checks may, for instance, be conducted on site by designated employees, but they may also take the form of digital transmission of test certificates to the employers. Employers are required to verify the test certificates daily and to document them regularly. In the case of vaccinated persons, the presence of valid evidence only needs to be recorded and documented once. Employees are obliged to present their vaccination, convalescence or test certificates upon request. Employees may also deposit their proof of immunisation with the employers on a voluntary basis. Employers may, if this is required, process data on immunisation and testing status.

If **employees are housed in shared accommodation**, the 3G rule already applies when they enter the accommodation. Employees who are neither vaccinated nor recovered must also carry a test certificate when staying in shared accommodation. Responsibility for obtaining test certificates lies with the persons accommodated themselves. In this context, too, employers must carry out and document access checks. This also applies at weekends. The employers may assign other persons such as employees housed in the shared accommodation to carry out and document supervised self-tests.

The Federal Ministry of Labour and Social Affairs has compiled answers to many questions relating to the 3G status rule at work on its website: [FAQs des BMAS zu 3G am Arbeitsplatz.](#)

2. Further occupational health and safety measures

Further measures that are to be applied to all holdings, and specific measures aimed at protecting seasonal farm workers against infection at work in the agricultural sector, are laid down in the [SARS-CoV-2 Occupational Health and Safety Ordinance](#) and the [SARS-CoV-2 Occupational Health and Safety Regulation](#), which will initially continue to apply up to and including 19 March 2022. The SARS-CoV-2 Occupational Health and Safety Regulation, in particular, provides employers with a reliable basis for selecting and implementing suitable measures to reduce the risk of infection in the workplace, such as hygiene rules, distancing requirements and organisational regulations aimed at minimising contacts between employees as well as contacts with customers and business partners. When implementing these rules, holdings can safely assume that they comply with the applicable legislative minimum requirements.

The social security scheme for agriculture, forestry and horticulture (SVLFG) provides [further complementary practical orientation](#) with regard to COVID-19 measures relating to seasonal workers. General and COVID-19-specific information aimed directly at seasonal workers is also available in the SVLFG [Web App](#), which is available in different languages. Furthermore, the SVLFG has published [videos](#) with general information on occupational health and safety, including in Polish and Romanian. Further information on occupational health and safety in the agricultural sector can also be found at <https://www.svlfg.de/auslaendische-saisonarbeitskraefte> and <https://www.svlfg.de/information-saisonarbeitskraefte>.

During the pandemic, the special COVID-19 regulations relating to mitigating the risk of infection in the workplace must be applied in addition to the general occupational health and safety provisions that remain in force; these special COVID-19 regulations **also apply if a seasonal worker's region of origin is no longer classified as a risk area.**

In the event of a high incidence of infection and high hospitalisation rates, the federal states (*Länder*) can make use of further-reaching options provided by the Infection Protection Act and prescribe additional necessary measures. Beyond that, **agricultural holdings** should **check** whether more extensive, possibly stricter, state regulations on infection control are to be applied in their respective federal state (*Länder*). The [website](#) of the *Länder* Committee on Occupational Safety and Safety Systems (LASi) provides an overview of these regulations at federal state level.

In addition to that, the [“Fair Mobility”](#) (Faire Mobilität) project offers information and advisory services for EU citizens. It provides advice, for example to seasonal agricultural workers, on questions regarding social and labour law. Brochures, flyers and advisory services (in person or via hotline) are available free of charge, for instance in Romanian and Polish. Seasonal workers from third countries can contact the [“Fair Integration”](#) (Faire Integration) advice centres that are represented in all federal states.

To effectively protect seasonal agricultural workers against infection, the following measures are of major importance in addition to the 3G rule at work:

- **Minimising personal contact at work and during leisure time.** This measure not only protects everyone involved, but also reduces economic damage to the holding in the event of infection.
- In holdings with more than ten workers, the **workforce** must be divided into **as small working groups as possible**. Workers must be divided into **fixed (working) groups consisting of a maximum of four people**, and these groups must remain unchanged, wherever possible. Larger groups of up to 15 people are only permitted if the technology used (sorting facilities, harvesting machines, weighing and packaging machines) is proven to require the respective number of people.
- **Maintaining a minimum distance of at least 1.5 m** in all areas. Both inside and outside, at work and on the way to and from work, as well as during breaks and leisure time.
- **Wearing mouth and nose protection (surgical face masks) or respirators (at least FFP2 or equivalent)** is required if the minimum distance cannot be maintained and other technical and organisational measures to protect workers against infection are insufficient. Employers must make these masks available to the workers free of charge and in sufficient quantities. Simple **mouth and nose coverings (cloth masks)** are **no longer acceptable**.
- **Sufficient hand hygiene** must also be ensured in the agricultural and forestry sector. Where hand-washing facilities are not available, **suitable hand sanitisers** must be made available.

- Providing a **sufficient supply of fresh air** in all shared rooms (used for work and leisure) by **regularly airing and ventilating these rooms**. The recirculation of air from air conditioning systems should be avoided unless the system has suitable recirculation filters (for example class 13 or 14 HEPA filters).
- As regards accommodation, mandatory **room and/or housing arrangements** must be made for the entire duration of the stay. These should be in line with the division into working groups.
- The **basic principle of “Living together – Working together”** (*Zusammen Wohnen – Zusammen Arbeiten*) must be applied.
- As a general rule, **single occupancy of bedrooms** should be provided for.
- If single occupancy is not possible, only **persons from the same working group** may be accommodated together **in rooms with multiple occupants**.
- Where the individual working groups do not have their own **social facilities and sanitary and kitchen areas**, each group must use these facilities and rooms **separately**. In such cases, the **holding’s hygiene strategy** must provide for the facilities to be **cleaned and ventilated** each time one group leaves them.
- All measures mitigating the risk of infection in the workplace must be compiled in a **holding’s hygiene strategy** and must **be made available to the holding’s workers in an appropriate manner**. The practical guidelines and the SVLFG’s Web App provide a good basis in this regard, especially because they are also available in the workers’ native languages. When determining and implementing the measures to reduce the risk of infection at the workplace, employers may take into account the workers’ vaccination or recovery status if they are aware of it.

3. Border controls and entry restrictions

The **entry of seasonal agricultural workers is currently permitted**– regardless of which country the seasonal workers come from.

According to the Ordinance on Coronavirus Entry Regulations, seasonal workers are exempt from the ban on the carriage of persons from areas of variants of concern.

Their accommodation provided by the agricultural holdings is classified as place of residence within the meaning of the exemption. **Therefore, they may enter the Federal Republic of Germany** provided that they comply with the general requirements regarding entry and stay. Quarantine regulations for travellers entering Germany must be observed. The same applies to further requirements, in particular the obligation to register and to provide proof of full vaccination or recovery (also referred to as immunisation) or proof of testing with negative result. In the case of entry from a high-incidence area or an area of variants of concern using a transport company (e.g. entry by coach), the transport company is obliged to check the confirmation of digital registration and (the plausibility of the personal information provided in) the relevant proof before the journey commences. If travellers are unable to produce the confirmation of registration and proof required, they may not be carried.

By adopting the “Council Conclusions on improving the working and living conditions of seasonal and other mobile workers” of 9 October 2020 and the “Council Recommendation on a coordinated approach to the restriction of free movement in response to the COVID-19 pandemic” of 13 October 2020, the EU took a firm stand against entry restrictions for seasonal workers.

For further questions, please consult the homepage of the responsible Federal Ministry of the Interior, Building and Community, BMI (Link: [Contact BMI](#)).

4. Rules for entering Germany

In addition to the aforementioned, travellers entering Germany are subject to an **obligation to provide proof** of full vaccination, recovery or testing with negative result pursuant to the [Ordinance on Coronavirus Entry Regulations \(Coronavirus-Einreiseverordnung\)](#). This obligation to provide proof **applies upon any entry into Germany, irrespective of the area from which a person enters the country**. Any person entering Germany from a **high risk area or from an area of variants of concern** is subject to an additional **obligation to register and to remain in quarantine**.

4.1 Obligation to provide proof

There is a general **obligation to provide proof that applies to seasonal workers as well as all other travellers entering Germany**: They must provide **proof of full vaccination, recovery or a negative test result upon entry** into the Federal Republic of Germany. **This proof must be issued either in German, English, French, Italian or Spanish**. The criteria for a valid **proof of vaccination** are published by the Paul Ehrlich Institute at www.pei.de/impfstoffe/covid-19. The Robert Koch Institute publishes the criteria for a valid **proof of convalescence** at www.rki.de/covid-19-genesenennachweis. With effect from 15 January 2022, the duration of convalescent status was shortened from 6 months to **90 days**.

Proof of testing can be provided by submitting either a **PCR test (laboratory test)** or a **PoC SARS-CoV-2 rapid antigen test (instant result)**. If travellers previously stayed in an area classified as an **area of variants of concern**, they may only enter Germany with a **PCR test**. Proof of vaccination or recovery as well as a rapid antigen test are not sufficient in this case. Persons who have only passed through an area of variants of concern must also be in possession of proof of PCR testing.

The test on which the test certificate is based must date back **48 hours at most** at the time of entry. If a transport company is used for entry and a negative PCR test result is available, it is sufficient if this test dates back 48 hours at most at the start of the transport.

Testing must have been conducted by a service provider pursuant to section 6 (1) of the Coronavirus Testing Ordinance (Coronavirus-Testverordnung), in the context of company-based testing for the purpose of occupational health and safety (by staff who have the required training or knowledge and experience), or abroad by an entity authorised to do so under the law of the country in which the test was conducted. The service provider or entity conducting the test must also verify and confirm the identity of the person tested by means of an official photo ID. The certificate/test result must indicate the date of testing and the type of test used.

4.2 Obligation to register

Generally, **all persons entering Germany from high risk areas and areas of variants of concern, which includes all seasonal workers, are required, before entering the country, to register their entry** via the travel portal at www.einreiseanmeldung.de. This registration is free of charge and travellers can register in different languages, including in Polish and Romanian. If persons use a transport company to enter the country, they must present the transport company with a confirmation of their successful registration before commencing their journey. The journey must under no circumstances be permitted if the person entering Germany cannot present proof of their registration.

Persons who merely passed through a high-risk area or area of variants of concern **without stopping** are exempt from the obligation to register. Stopovers are stays which exceed the customary length of a necessary stop, for example in order to take a break or refuel a vehicle; connection times at an airport are not deemed to constitute a stopover.

4.3 Quarantine regulations

According to the Ordinance on Coronavirus Entry Regulations, there is also a nationwide obligation to self-isolate in case of entry from a high risk area or an area of variants of concern – the so-called obligation to remain in quarantine.

For workers who have spent time **in a high-risk area**, the ordinance provides for a general requirement to **self-isolate for ten days** upon entry or re-entry from this high risk area. Persons who have been vaccinated or have recovered may terminate self-isolation before the end of this period once proof of vaccination or recovery has been submitted to the competent authority via the travel portal. Persons who have entered Germany with a negative test result may terminate self-isolation after the fifth day once a new negative test result has been submitted. This new test may be conducted no earlier than on the fifth day after the day of entry.

Persons who enter the territory of the Federal Republic of Germany from a high risk area with the purpose of taking up work for a duration of at least three weeks, i.e. in particular **seasonal workers**, may, exceptionally, self-isolate in the form of a so-called **work quarantine**, provided they upload a negative test result via the travel portal. The rules for work quarantine are the following: at group level, operational hygiene measures and precautions to prevent contacts outside the working group comparable to general quarantine must be taken at workplaces and in accommodations **during the first five days after entry**. Leaving the accommodation is only permitted for the purpose of performing one's work. The employer must notify the competent authority of that employment before the workers take it up, and document the measures and precautions specified above. Where all these conditions have been met, **working** under strict protective measures is **possible directly after entry into Germany**. Work quarantine ends after the fifth day after entry. Where the worker provides proof of vaccination or recovery, work quarantine ends immediately after the proof has been submitted. If

the **proof of immunisation** has already been submitted via the travel portal **prior to entry, no work quarantine** is required.

If a high risk area is downgraded to an area without any special risk after a person's entry into Germany but before the end of their quarantine period, then the quarantine requirement ends automatically.

Any person simply **passing through a high risk area** without stopping over (except for necessary stops such as for resting or refuelling, provided that their duration is no longer than could be reasonably expected), is **not automatically obliged to self-isolate**.

For persons entering Germany who have not stayed in a high risk area in the ten days prior to entering Germany, the Ordinance on Coronavirus Entry Regulations does not provide for the obligation to remain in quarantine.

Entry from areas of variants of concern is subject to further additional restrictions. As of 21 January 2022, no countries or regions are deemed areas of variants of concern.

The website of the [Robert Koch Institute \(RKI\)](https://www.rki.de) provides a continuously updated overview of which countries are classified as high risk areas or areas of variants of concern.

In summary, depending on the region of origin, the following applies to seasonal workers with regard to the obligation to register and provide proof as well as the possibility of work quarantine:

<u>Region of origin</u>	<u>Obligation to register</u>	<u>Obligation to provide proof</u>	<u>Work quarantine</u>
<u>No classification as a high risk area or area of variants of concern</u>	<ul style="list-style-type: none"> No 	<ul style="list-style-type: none"> Yes, at time of entry 	<ul style="list-style-type: none"> Not applicable as there is no obligation to remain in quarantine
<u>High risk area</u>	<ul style="list-style-type: none"> Yes: prior to entry, as a general rule, in digital form; travellers must carry confirmation of registration Exemption: travellers only passing through a high risk area without stopping over 	<ul style="list-style-type: none"> Yes, at time of entry Provision of proof by employer is possible 	<ul style="list-style-type: none"> Possible Submission of a negative test result via the travel portal Duration: 5 days Ends or is no longer needed after immunisation as soon as proof of vaccination or recovery has been submitted to the competent authority
<u>Area of variants of concern</u>	<ul style="list-style-type: none"> Yes, prior to entry, as a general rule, in digital form; travellers must carry confirmation of registration Exemption: travellers only passing through an area of variants of concern without stopping over 	<ul style="list-style-type: none"> Yes, at time of entry Proof of PCR testing required Provision of proof by employer is possible 	<ul style="list-style-type: none"> <u>Not</u> possible Instead, 14-day mandatory quarantine without permission to work No possibility of ending quarantine by test-to-release; no exemption/shortening of duration after immunisation

5. Further information on testing

Tests are conducted at different places depending on the federal state and the municipality. Testing may also be undertaken on-site in the agricultural holdings, for instance using point-of-care rapid antigen tests (POCT), which must be undertaken by skilled staff, or using so-called self-collection kits and tests. Self-tests are only sufficient as evidence of testing for entering workplaces and collective accommodation if they are carried out under the supervision of trained personnel.

How much time it will take to obtain a test result depends on the type of test method used (PCR test, POCT). The test result of a POCT may already be available after a few minutes. No sample analysis in a laboratory is needed here. If testing is carried out using a PCR test, a laboratory examination is required. This method has a lower error rate.

Currently, seasonal workers must **pay the costs** of the tests required for their entry themselves. Depending on the terms of their work contracts, their agricultural employers may cover these costs.

Employers must offer all their employees, including their seasonal workforce, the opportunity to be tested twice per week. PCR tests, self-collection tests and rapid antigen tests are acceptable. Employers must bear the costs of these tests.

In addition to that, testing may be part of the individual employer's operational hygiene strategy as a contribution towards mitigating the risk of infection in the workplace. The costs of these tests may not be imposed on workers.

Moreover, foreign seasonal workers have the same access as German citizens to the public SARS-CoV-2 rapid antigen tests that the government provides free of charge (so-called point-of-care tests; POCT) and can use these offers to acquire and update required evidence of 3G status.

6. Vaccination

The [Ordinance on the Entitlement to Vaccination against the SARS-CoV-2 Coronavirus \(Coronavirus-Impfverordnung\)](#) of the Federal Ministry of Health regulates the **entitlement to protective vaccination against the coronavirus SARS-CoV-2.**

According to this ordinance, **seasonal workers are also entitled to be vaccinated against the coronavirus.**

Under the SARS-CoV-2 Occupational Health and Safety Ordinance, employers have an obligation to support vaccinations: they are obliged to inform workers about the risks of COVID-19 and the opportunities to get vaccinated. Where workers want to be vaccinated, employers must release them from work, also during working hours, as the case may be. No proof of testing is needed to take up an employer's offer of vaccination at work.

Vaccinations are, inter alia, administered at vaccination centres, by mobile vaccination teams, at physicians' offices, in hospitals, by company doctors or even spontaneously at other public vaccine sites.

Information on how to make an appointment for vaccination is available on the [patient services website of the National Association of Statutory Health Insurance Physicians](#).

Further replies to the key [questions on the coronavirus vaccination](#) can be found on the website of the Federal Ministry of Health.

7. Final remarks

An intensive exchange with agricultural enterprises has shown that the holdings have a strong interest in protecting their employees against infection and maintaining farm operations through proactive protective measures. The Federal Ministry of Food and Agriculture recommends that agricultural employers check, upon the arrival of their seasonal workers, whether these carry one of the required documents and have complied with their obligation to register. All this helps to protect everybody's health.

This document is updated on a regular basis, based on the following provisions:

- [Infection Protection Act \(Infektionsschutzgesetz\)](#)
- [SARS-CoV-2 Occupational Health and Safety Ordinance \(SARS-CoV-2-Arbeitsschutzverordnung\)](#)
- [SARS-CoV-2 Occupational Health and Safety Regulation \(SARS-CoV-2-Arbeitsschutzregel\)](#)
- [Ordinance on Coronavirus Entry Regulations \(Coronavirus-Einreiseverordnung\)](#)
- [Coronavirus Testing Ordinance \(Coronavirus-Testverordnung\)](#)
- [Ordinance on the Entitlement to Vaccination against the SARS-CoV-2 Coronavirus \(Coronavirus-Impfverordnung\)](#)

The rules and regulations outlined above are constantly adapted according to the infection situation and to new research findings.

This summary is a mere snapshot of the applicable legal framework in Germany and is designed to serve as a manual. The latest version is available at: [bmel.de/rahmenbedingungen-saisonarbeitskraefte](https://www.bmel.de/rahmenbedingungen-saisonarbeitskraefte).