

11/25/2021

3G in the workplace - data economy is the order of the day! Since November 24th, 2021, stricter rules have been in force in the employment relationship to contain the corona pandemic. Due to an amendment to the Infection Protection Act (IfSG), access to a workplace where physical contact with other people cannot be ruled out is only permitted if employees and visitors provide the so-called 3G proof to the employer (§ 28 b Paragraph 1 IfSG). That means they must be either vaccinated, recovered, or tested negative. This change brings with it numerous changes for most jobs in the country: because the employer is obliged to monitor and document the obligation to provide evidence on a daily basis. Violations can result in high fines.

Correspondingly, the previous regulations on the admissibility of a vaccination request by the employer have been expanded. Employers are now allowed to request information about the vaccination, recovery or test status of employees and to process this data - including the validity period of the certificate (§ 28b Para. 3). Once the employer has checked and documented the proof of recovery or vaccination, employees with a valid certificate can be exempted from the daily access controls.

In view of the new regulations, employees are not obliged to provide the employer with information about their own vaccination or recovery status. If you don't want to answer this question, you have to submit a test every day.

"Even if employers are now also allowed to process their employees' health data on the basis of the amended Infection Protection Act, data protection regulations must be observed," says Prof. Dr. Dieter Kugelmann, State Commissioner for Data Protection and Freedom of Information in an initial assessment: "The new regulations are not a license to get a comprehensive picture of the state of health of employees! The aim is health protection, not spying on employees". The principle of data minimization according to Article 5 of the General Data Protection Regulation continues to apply without restriction.

Employers are therefore required to choose the most data-efficient verification method. As an example, Prof. Kugelmann gave the use of the free "CovPassCheck app" published by the RKI by the employer

(<https://www.digitaler-impfzettel-app.de/covpasscheck-app/>) - ideally on the work or company cell phone . This method is preferable to creating extensive lists of names with information on the status of those who have recovered or on previous vaccination dates. If verification certificates or QR codes are to be transmitted electronically, sufficient confidentiality of the data must be ensured, e.g. through suitable encryption.

"All in all, I would have liked a regulation where employers only scan in a QR code during the verification process and are therefore unable to identify which of the three "Gs" the employee has. Italy has demonstrated this with the Green Pass. The problem is exacerbated by the fact that the new regulations also allow the use of vaccination data for the employer's hygiene concept. I appeal to employers to handle the data prudently and carefully".

Further information at: <https://www.digitaler-impfzettel-app.de/faq#wann->

[Brauche-ich-die-covpasscheck-app-https://www.bmas.de/DE/Corona/Fragen-und-](https://www.bmas.de/DE/Corona/Fragen-und-)

[Answers/Faq-und-Anworten-ASVO/faq-corona-asvo.html#doc89168596-e024-487b-980f-e8d076006499bodyText3](https://www.bmas.de/DE/Corona/Fragen-und-Answers/Faq-und-Anworten-ASVO/faq-corona-asvo.html#doc89168596-e024-487b-980f-e8d076006499bodyText3)

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