



STATUTORY INSTRUMENTS.

S.I. No. 318 of 2021



EUROPEAN UNION (EU DIGITAL COVID CERTIFICATES)
REGULATIONS 2021

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I, STEPHEN DONNELLY, Minister for Health, in exercise of the powers conferred on me by section 3 of the European Communities Act (No. 27 of 1972) and for the purpose of giving full effect to 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, hereby make the following regulations:

1. These Regulations may be cited as the European Union (EU Digital Covid Certificates) Regulations 2021.

2. In these Regulations -

“Act of 1947” means the Health Act 1947 (No. 28 of 1947);

“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;

“EU Digital Covid Certificate” has the meaning it has in the Digital Covid Certificate Regulation;

“Executive” means the Health Service Executive;

“General Data Protection Regulation” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016² on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC;

“Minister” means the Minister for Health;

“NAAT test” has the meaning it has in the Digital Covid Certificate Regulation;

“personal data” has the meaning it has in Article 4 of the General Data Protection Regulation;

“rapid antigen test” has the meaning it has in the Digital Covid Certificate Regulation.

¹ OJ No. L 211, 15.06.2021, p. 1

² OJ No. L119, 4.5.2016, p.1

3. The Executive may issue EU Digital Covid Certificates referred to in Article 3(1)(a) and (c) of the Digital Covid Certificate Regulation on behalf of the State.

4. (1) A person or body that satisfies the conditions set out in paragraph (2) may issue EU Digital Covid Certificates referred to in Article 3(1)(b) of the Digital Covid Certificate Regulation on behalf of the State.

(2) The conditions referred to in paragraph (1) are that the person or body concerned -

- (a) lawfully conducts -
 - (i) NAAT tests, or
 - (ii) rapid antigen tests of a kind included, for the time being, in the common list of Covid-19 rapid antigen tests agreed in accordance with the Council Recommendation of 21 January 2021³ on a common framework for the use and validation of rapid antigen tests and the mutual recognition of COVID-19 test results in the EU,

in the State,
- (b) ensures that all such tests are conducted by a member of a relevant profession within the meaning of the Health and Social Care Professionals Act 2005 (No. 27 of 2005) or similarly skilled testing personnel, and
- (c) ensures that all personal data relevant to the administration of such tests is processed in accordance with the General Data Protection Regulation and the Digital Covid Certificate Regulation.

(3) A person who purports to issue an EU Digital Covid Certificate referred to in Article 3(1)(b) of the Digital Covid Certificate Regulation without satisfying the conditions set out in paragraph (2) shall be guilty of an offence.

(4) A person who commits an offence under paragraph (3) is liable on summary conviction –

- (a) in the case of a first such offence, to a fine not exceeding €4,000 or imprisonment for a term not exceeding one month or both,
- (b) in the case of a second such offence, to a fine not exceeding €4,500 or imprisonment for a term not exceeding 3 months or both, and
- (c) in the case of a third or subsequent such offence, to a fine not exceeding €5,000 or imprisonment for a term not exceeding 6 months or both.

³ OJ C 24, 22.1.2021, p. 1

5. (1) A person who -

- (a) forges, fraudulently alters, assists in forging or fraudulently altering or procures to be forged or fraudulently altered any document for reward where such document is used or intended to be used as if it was an EU Digital Covid Certificate, or
- (b) provides a document that, to the person's knowledge, has been so forged or fraudulently altered, or that relates to a person other than the person providing the document, in purported compliance with any requirement under the Act of 1947, or any regulations made thereunder, to -
 - (i) a relevant person (within the meaning of 38B of the Act of 1947),
 - (ii) an approved person (within the meaning of 38H of the Act of 1947), or
 - (iii) a member of the Garda Síochána,

shall be guilty of an offence.

(2) A person who commits an offence under paragraph (1) is liable on summary conviction -

- (a) in the case of a first such offence, to a fine not exceeding €4,000 or imprisonment for a term not exceeding one month or both,
- (b) in the case of a second such offence, to a fine not exceeding €4,500 or imprisonment for a term not exceeding 3 months or both, and
- (c) in the case of a third or subsequent such offence, to a fine not exceeding €5,000 or imprisonment for a term not exceeding 6 months or both.

(3) Where personal data collected in accordance with these Regulations are 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.

6. In relation to personal data processed for the purpose of issuing an EU Digital Covid Certificate, the data controllers shall be -

- (a) in relation to EU Digital Covid Certificates referred to in Article 3(1)(a) and (c) of the Digital Covid Certificate Regulation, the Minister and the Executive, and
- (b) in relation to EU Digital Covid Certificates referred to in Article 3(1)(b) of the Digital Covid Certificate Regulation, the person or body that conducts, in accordance with Regulation 4, the test to which the certificate relates.



GIVEN under my Official Seal,
30 June, 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, made under Section 3 of the European Communities Act (No. 27 of 1972) outline the criteria providers of COVID-19 tests need to meet in order to be eligible to issue test certificates in line with the Digital COVID Certificate Regulations (EU) 2021/953, with associated penal provision for forgery and fraud.

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