

# Repealed - Interim Order to Prevent Certain Persons from Boarding Flights in Canada due to COVID-19, No. 7

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From: Transport Canada

Whereas the annexed *Interim Order to Prevent Certain Persons from Boarding Flights in Canada due to COVID-19, No. 7* is required to deal with a significant risk, direct or indirect, to aviation safety or the safety of the public;

Whereas the provisions of the annexed Order may be contained in a regulation made pursuant to sections 4.71 <sup>a</sup> and 4.9 <sup>b</sup>, paragraphs 7.6(1)(a) <sup>c</sup> and (b) <sup>d</sup> and section 7.7 <sup>e</sup> of the *Aeronautics Act* <sup>f</sup>;

And whereas, pursuant to subsection 6.41(1.2) <sup>g</sup> of that Act, the Minister of Transport has consulted with the persons and organizations that that Minister considers appropriate in the circumstances before making the annexed Order;

Therefore, the Minister of Transport, pursuant to subsection 6.41(1) <sup>g</sup> of the *Aeronautics Act* <sup>f</sup>, makes the annexed *Interim Order to Prevent Certain Persons from Boarding Flights in Canada due to COVID-19, No. 7*.

Ottawa, June 4, 2020

Le ministre des Transports,

Marc Garneau

Minister of Transport

# Interim Order to Prevent Certain Persons from Boarding Flights in Canada due to COVID-19, No. 7

## Interpretation

### Definitions

**1 (1)** The following definitions apply in this Interim Order.

**COVID-19** means the coronavirus disease 2019. (*COVID-19*)

**face mask** means any non-medical mask or face covering that is made of at least two layers of tightly woven material such as cotton or linen, is large enough to completely cover a person's nose and mouth without gaping and can be secured to a person's head with ties or ear loops. (*masque*)

**non-passenger screening checkpoint** has the same meaning as in section 3 of the *Canadian Aviation Security Regulations, 2012*. (*point de contrôle des non-passagers*)

**passenger screening checkpoint** has the same meaning as in section 3 of the *Canadian Aviation Security Regulations, 2012*. (*point de contrôle des passagers*)

**Regulations** means the *Canadian Aviation Regulations*. (*Règlement*)

**screening authority** has the same meaning as in section 3 of the *Canadian Aviation Security Regulations, 2012*. (*administration de contrôle*)

**screening officer** has the same meaning as in section 2 of the *Canadian Air Transport Security Authority Act*. (*agent de contrôle*)

## Interpretation

**(2)** Unless the context requires otherwise, all other words and expressions used in this Interim Order have the same meaning as in the Regulations.

## **Conflict**

**(3)** In the event of a conflict between this Interim Order and the Regulations or the *Canadian Aviation Security Regulations, 2012*, this Interim Order prevails.

## **Application**

### **Flights departing from an aerodrome in Canada**

**2 (1)** Subject to subsection (2), sections 3 to 17 apply to the following operators who operate a flight, other than a cargo flight without passengers, from an aerodrome in Canada and to their passengers:

**(a)** the holder of a private operator registration document issued under Subpart 4 of Part VI of the Regulations; and

**(b)** the holder of a certificate issued under Subpart 1, 3, 4 or 5 of Part VII of the Regulations.

## **Exception**

**(2)** Section 3 does not apply to the holder of a certificate issued under Subpart 1 of Part VII of the Regulations.

## **Screening authority**

**(3)** Sections 18 to 20 apply to the screening authority at an aerodrome set out in the schedule to the *CATSA Aerodrome Designation Regulations* or at any other place designated by the Minister under subsection 6(1.1) of the *Canadian Air Transport Security Authority Act*.

## **Provincial and Territorial Measures**

## Notification

**3** Before boarding an aircraft for a domestic flight that an operator operates, the operator must notify every person who intends to board the aircraft as a passenger that they may be subject to any measure to prevent the spread of COVID-19 taken by the provincial or territorial government with jurisdiction at the destination aerodrome for that flight.

## Health Check

### Health check – operator

**4** Subject to section 6, an operator must conduct a health check of every person boarding an aircraft for a flight that the operator operates.

### Health check

**5 (1)** An operator conducting a health check must ask questions of every person to verify whether they exhibit the following symptoms:

- (a)** a fever;
- (b)** a cough; and
- (c)** breathing difficulties.

### Additional questions

**(2)** In addition to the health check, the operator must ask every person

- (a)** whether they have been refused boarding in the past 14 days due to a medical reason related to COVID-19; and
- (b)** whether they are the subject of a mandatory quarantine order as a result of recent travel or as a result of an order issued by a provincial or local public health authority.

### False declaration – obligation of operator

**(3)** The operator must advise every person not to provide answers to the health check questions and the additional questions that they know to be false or misleading.

### **False declaration – obligation of person**

**(4)** A person who, under subsections (1) and (2), is subjected to a health check and is asked the additional questions must

**(a)** answer all questions; and

**(b)** not provide answers that they know to be false or misleading.

### **Observation – operator**

**(5)** Before a person boards an aircraft for a flight that the operator operates, the operator must observe whether the person is exhibiting any symptoms referred to in subsection (1).

### **Exceptions**

**6** The operator is not required to conduct a health check for the following persons:

**(a)** a crew member; or

**(b)** a person who provides a medical certificate certifying that any symptoms referred to in subsection 5(1) that they are exhibiting are not related to COVID-19.

### **Prohibition**

**7** An operator must not permit a person to board an aircraft for a flight that the operator operates if

**(a)** the person's answers to the health check questions indicate that they exhibit

- (i)** a fever and cough, or
  - (ii)** a fever and breathing difficulties;
- (b)** the operator observes, before the person boards an aircraft, that the person is exhibiting
  - (i)** a fever and cough, or
  - (ii)** a fever and breathing difficulties;
- (c)** the person's answer to any of the additional questions asked of them under subsection 5(2) is in the affirmative; or
- (d)** the person is a competent adult and refuses to answer any of the questions asked of them under subsection 5(1) or (2).

### **Waiting period of 14 days**

**8** A person who is not permitted to board an aircraft under section 7 is not permitted to board another aircraft for the purpose of being transported for a period of 14 days after the refusal, unless they provide a medical certificate certifying that any symptoms referred to in subsection 5(1) that they are exhibiting are not related to COVID-19.

### **Face Masks**

#### **Exception**

**9** Sections 10 to 17 do not apply to the following persons:

- (a)** an infant;
- (b)** a person who has breathing difficulties unrelated to COVID-19;
- (c)** a person who is unconscious; or
- (d)** a person who is unable to remove their face mask without assistance.

## Notification

**10** An operator must notify every person who intends to board an aircraft for a flight that the operator operates that

- (a) the person must be in possession of a face mask prior to boarding;
- (b) the person must wear the face mask at all times during the boarding process and during the flight when they are 2 m or less from another person unless both persons are occupants of the same dwelling-house or other place that serves that purpose; and
- (c) the person must comply with any instructions given by a gate agent or a crew member with respect to wearing a face mask.

## Obligation to possess face mask

**11** Every person must be in possession of a face mask prior to boarding an aircraft for a flight from an aerodrome in Canada.

## Wearing of face mask – person

**12 (1)** Subject to subsections (2) and (3), an operator must require a person to wear a face mask at all times during the boarding process and during a flight the operator operates when the person is 2 m or less from another person.

## Exceptions – person

**(2)** Subsection (1) does not apply

- (a) when the only other persons who are 2 m or less from the person are occupants of the person's dwelling-house or other place that serves this purpose;
- (b) when the safety of the person could be endangered by wearing a face mask;

- (c) when the person is eating, drinking or taking oral medications;
- (d) when a gate agent or a crew member authorizes the removal of the face mask to address the person's special needs or unforeseen circumstances; or
- (e) when a gate agent authorizes the removal of the face mask to verify the person's identity.

### **Exceptions – flight deck**

**(3)** Subsection (1) does not apply to the following persons when they are on the flight deck:

- (a) a Department of Transport air carrier inspector;
- (b) an inspector of the civil aviation authority of the state where the aircraft is registered;
- (c) an employee of the operator who is not a crew member performing their duties;
- (d) a pilot, flight engineer or flight attendant employed by a wholly owned subsidiary or a code share partner of the operator; or
- (e) a person who has expertise related to the aircraft, its equipment or its crew members and who is required to be on the flight deck to provide a service to the operator.

### **Compliance – person**

**13** A person must comply with any instructions given by a crew member or a gate agent with respect to wearing a face mask.

### **Prohibition – operator**



**14** An operator must not permit a person to board an aircraft for a flight that the operator operates if

- (a) the person is not in possession of a face mask; or
- (b) the person refuses to comply with an instruction given by a crew member or a gate agent in accordance with section 13.

### **Refusal to comply**

**15** If, during a flight that an operator operates, a person refuses to comply with an instruction given by a crew member with respect to wearing a face mask, the operator must

- (a) keep a record of
  - (i) the date and flight number,
  - (ii) the person's name and contact information,
  - (iii) the person's seat number, and
  - (iv) the circumstances related to the refusal to comply; and
- (b) inform the Minister as soon as feasible of any record created under paragraph (a).

### **Wearing of face masks – crew member**

**16 (1)** Subject to subsections (2) and (3), an operator must require a crew member to wear a face mask at all times during the boarding process and during a flight the operator operates when the crew member is 2 m or less from another person.

### **Exceptions – crew member**

**(2)** Subsection (1) does not apply

**(a)** when the safety of the crew member could be endangered by wearing a face mask;

**(b)** when the wearing of a face mask by the crew member could interfere with operational requirements or the safety of the flight; or

**(c)** when the crew member is eating, drinking or taking oral medications.

### **Exception – flight deck**

**(3)** Subsection (1) does not apply to a crew member who is a flight crew member when they are on the flight deck.

### **Wearing of face masks – gate agent**

**17 (1)** Subject to subsection (2), an operator must require a gate agent to wear a face mask during the boarding process for a flight that the operator operates when the gate agent is 2 m or less from another person.

### **Exceptions**

**(2)** Subsection (1) does not apply

**(a)** when the safety of the gate agent could be endangered by wearing a face mask; or

**(b)** when the gate agent is eating, drinking or taking oral medications.

### **Screening Authority**

#### **Requirement – passenger screening checkpoint**

**18 (1)** A screening authority must notify a person who is subject to screening at a passenger screening checkpoint under the *Canadian Aviation Security Regulations, 2012* that they must wear a face mask at all times during screening.

## **Requirement – non-passenger screening checkpoint**

**(2)** A screening authority must notify a person who is subject to screening at a non-passenger screening checkpoint under the *Canadian Aviation Security Regulations, 2012* that they must wear a face mask at all times during screening.

## **Requirement to wear – person**

**(3)** A person who is the subject of screening referred to in subsection (1) or (2) must wear a face mask at all times during screening.

## **Requirement to wear – screening officer**

**(4)** A screening officer must wear a face mask at a screening checkpoint when conducting the screening of a person if, during the screening, the screening officer is 2 m or less from the person being screened.

## **Exception**

**(5)** Despite subsections (1) to (3), a person who is listed in any of paragraphs 9(a) to (d) is not required to wear a face mask.

## **Removing face mask**

**19** Despite section 18, a person who is required by a screening officer to remove their face mask during screening must do so.

## **Prohibition – refusal**

**20 (1)** A screening authority must not permit a person, other than a person listed in any of paragraphs 9(a) to (d), who has been notified to wear a face mask and refuses to do so, to pass beyond a non-passenger screening checkpoint or a passenger screening checkpoint into a restricted area, including a sterile area.

## Definitions of *restricted area* and *sterile area*

(2) In this section, *restricted area* and *sterile area* have the same meaning as in section 3 of the *Canadian Aviation Security Regulations, 2012*.

## Designated Provisions

### Designation

**21 (1)** The provisions of this Interim Order set out in column 1 of the schedule are designated as provisions the contravention of which may be dealt with under and in accordance with the procedure set out in sections 7.7 to 8.2 of the Act.

### Maximum amounts

(2) The amounts set out in column 2 of the schedule are the maximum amounts of the penalty payable in respect of a contravention of the designated provisions set out in column 1.

### Notice

(3) A notice referred to in subsection 7.7(1) of the Act must be in writing and must specify

(a) the particulars of the alleged contravention;

(b) that the person on whom the notice is served or to whom it is sent has the option of paying the amount specified in the notice or filing with the Tribunal a request for a review of the alleged contravention or the amount of the penalty;

(c) that payment of the amount specified in the notice will be accepted by the Minister in satisfaction of the amount of the penalty for the alleged contravention and that no further proceedings under Part I of

the Act in respect of that notice will be taken against the person on whom the notice is served or to whom it is sent;

**(d)** that the person on whom the notice is served or to whom it is sent will be provided with an opportunity consistent with procedural fairness and natural justice to present evidence before the Tribunal and make representations in relation to the alleged contravention if the person files a request for a review with the Tribunal; and

**(e)** that the person on whom the notice is served or to whom it is sent will be considered to have committed the contravention set out in the notice if they fail to pay the amount specified in the notice and fail to file a request for a review with the Tribunal within the prescribed period.

## Repeal

**22 The *Interim Order to Prevent Certain Persons from Boarding Flights in Canada due to COVID-19, No. 6*, made on May 26, 2020, is repealed.**

## Schedule

(Subsections 21(1) and (2))

## Designated Provisions

Column 1	Column 2	
	Maximum Amount of Penalty (\$)	
Designated Provision	Individual	Corporation
Section 3	5,000	25,000
Section 4	5,000	25,000
Subsection 5 (1)	5,000	25,000
Subsection 5 (2)	5,000	25,000

<b>Column 1</b>	<b>Column 2</b>	
<b>Designated Provision</b>	<b>Maximum Amount of Penalty (\$)</b>	
	<b>Individual</b>	<b>Corporation</b>
Subsection 5 (3)	5,000	25,000
Subsection 5 (4)	5,000	
Subsection 5 (5)	5,000	25,000
Section 7	5,000	25,000
Section 8	5,000	
Section 10	5,000	25,000
Section 11	5,000	
Subsection 12 (1)	5,000	25,000
Section 13	5,000	
Section 14	5,000	25,000
Section 15	5,000	25,000
Subsection 16 (1)	5,000	25,000
Subsection 17 (1)	5,000	25,000
Subsection 18 (1)		25,000
Subsection 18 (2)		25,000
Subsection 18 (3)	5,000	
Subsection 18 (4)	5,000	
Section 19	5,000	
Subsection 20 (1)		25,000

## Footnotes

- a** S.C. 2004, c. 15, s. 5
  - b** S.C. 2014, c. 39, s. 144
  - c** S.C. 2015, c. 20, s. 12
  - d** S.C. 2004, c. 15, s. 18
  - e** S.C. 2001, c. 29, s. 39
  - f** R.S., c. A-2
  - g** S.C. 2004, c. 15, s. 11(1)
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### **i** Did you find this information helpful?

**i** Transport Canada is closely monitoring the COVID-19 situation. In response, we have issued some **transportation-related measures and guidance**. Please check if any of these measures apply to you.

You may experience longer than usual wait times or partial service interruptions. If you cannot get through, please **contact us by email**.

For information on COVID-19 updates, please visit **Canada.ca/coronavirus**.

### **Date modified:**

2020-06-17

