

Whereas the annexed *Interim Order Respecting Certain Requirements for Civil Aviation Due to COVID-19, No. 36* 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 and 4.9, paragraphs 7.6(1)(a) and (b) and section 7.7 of the *Aeronautics Act*;

And whereas, pursuant to subsection 6.41(1.2) 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) of the *Aeronautics Act*, makes the annexed *Interim Order Respecting Certain Requirements for Civil Aviation Due to COVID-19, No. 36*.

Ottawa, August 9, 2021

Le ministre des Transports,

Original signed by
Omar Alghabra
Minister of Transport

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- S.C. 2004, c. 15, s. 5
 - S.C. 2014, c. 39, s. 144
 - S.C. 2015, c. 20, s. 12
 - S.C. 2004, c. 15, s. 18
 - S.C. 2001, c. 29, s. 39
 - R.S., c. A-2
 - S.C. 2004, c. 15, s. 11(1)
 - S.C. 2004, c. 15, s. 11(1)
 - R.S., c. A-2

**Interim Order Respecting Certain Requirements for Civil Aviation Due to COVID-19,
No. 36**

Interpretation

Definitions

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

aerodrome security personnel has the same meaning as in section 3 of the *Canadian Aviation Security Regulations, 2012*. (*personnel de sûreté de l'aérodrome*)

air carrier means any person who operates a commercial air service under Subpart 1, 3, 4 or 5 of Part VII of the Regulations. (*transporteur aérien*)

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

COVID-19 molecular test means a COVID-19 screening or diagnostic test carried out by an accredited laboratory, including a test performed using the method of polymerase chain reaction (PCR) or reverse transcription loop-mediated isothermal amplification (RT-LAMP). (*essai moléculaire relatif à la COVID-19*)

foreign national means a person who is not a Canadian citizen or a permanent resident and includes a stateless person. (*étranger*)

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*)

peace officer has the same meaning as in section 3 of the *Canadian Aviation Security Regulations, 2012*. (*agent de la paix*)

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

restricted area has the same meaning as in section 3 of the *Canadian Aviation Security Regulations, 2012*. (*zone réglementée*)

screening officer, except in section 2, 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*, the Interim Order prevails.

Definition of face mask

(4) For the purposes of this Interim Order, a **face mask** means any mask, including a non-medical mask that meets all of the following requirements:

- (a) it is made of multiple layers of tightly woven materials such as cotton or linen;
- (b) it completely covers a person's nose, mouth and chin without gaping;
- (c) it can be secured to a person's head with ties or ear loops.

Face masks — lip reading

(5) Despite paragraph (4)(a), the portion of a face mask in front of a wearer's lips may be made of transparent material that permits lip reading if

- (a) the rest of the face mask is made of multiple layers of tightly woven materials such as cotton or linen; and
- (b) there is a tight seal between the transparent material and the rest of the face mask.

Notification

Federal, provincial and territorial measures

2 (1) A private operator or air carrier operating a flight between two points in Canada or a flight to Canada departing from any other country must notify every person boarding the aircraft for the flight that they may be subject to measures to prevent the spread of COVID-19 taken by the provincial or territorial government with jurisdiction where the destination aerodrome for that flight is located or by the federal government.

Suitable quarantine plan

(2) A private operator or air carrier operating a flight to Canada departing from any other country must notify every person before the person boards the aircraft for the flight that they may be required, under an order made under section 58 of the *Quarantine Act*, to provide, before boarding the aircraft, to the Minister of Health, a screening officer or a quarantine officer, by the electronic means specified by that Minister, a suitable quarantine plan or, if the person is not required under that order to provide the plan and the evidence, their contact information. The private operator or air carrier must also notify every person that they may be liable to a fine if this requirement applies to them and they fail to comply with it.

Vaccination

(3) A private operator or air carrier operating a flight to Canada departing from any other country must notify every person before the person boards the aircraft for the flight that they may be required, under an order made under section 58 of the *Quarantine Act*, to provide, before boarding the aircraft or before entering Canada, to the Minister of Health, a screening officer or a quarantine officer, by the electronic means specified by that Minister, information related to their COVID-19 vaccination and evidence of COVID-19 vaccination. The private operator or air carrier must also notify every person that they may be denied boarding and may be liable to a fine if this requirement applies to them and they fail to comply with it.

False declarations

(4) A private operator or air carrier operating a flight between two points in Canada or a flight to Canada departing from any other country must notify every person boarding the aircraft for the flight that they may be liable to a monetary penalty if they provide a confirmation referred to in subsection 3(1) that they know to be false or misleading.

Definitions

(5) The following definitions apply in this section.

quarantine officer means a person designated as a quarantine officer under subsection 5(2) of the *Quarantine Act*. (*agent de quarantaine*)

screening officer has the same meaning as in section 2 of the *Quarantine Act*. (*agent de contrôle*)

Confirmation

Federal, provincial and territorial measures

3 (1) Before boarding an aircraft for a flight between two points in Canada or a flight to Canada departing from any other country, every person must confirm to the private operator or air carrier operating the flight that they understand that they may be subject to a measure to prevent the spread of COVID-19 taken by the provincial or territorial government with jurisdiction where the destination aerodrome for that flight is located or by the federal government.

False declaration

(2) A person must not provide a confirmation referred to in subsection (1) that they know to be false or misleading.

Exception

(3) A competent adult may provide a confirmation referred to in subsection (1) on behalf of a person who is not a competent adult.

Prohibition

4 A private operator or air carrier operating a flight between two points in Canada or a flight to Canada departing from any other country must not permit a person to board the aircraft for the flight if the person is a competent adult and does not provide a confirmation that they are required to provide under subsection 3(1).

Foreign Nationals

Prohibition

5 A private operator or air carrier must not permit a foreign national to board an aircraft for a flight that the private operator or air carrier operates to Canada departing from any other country.

Exception

6 Section 5 does not apply to a foreign national who is permitted to enter Canada under an order made under section 58 of the *Quarantine Act*.

Health Check

Non-application

7 Sections 8 to 10 do not apply to either of the following persons:

- (a) a crew member;
- (b) a person who provides a medical certificate certifying that any symptoms referred to in subsection 8(1) that they are exhibiting are not related to COVID-19.

Health check

8 (1) A private operator or air carrier must conduct a health check of every person boarding an aircraft for a flight that the private operator or air carrier operates by asking questions to verify whether they exhibit any of the following symptoms:

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

Notification

(2) A private operator or air carrier must notify every person boarding an aircraft for a flight that the private operator or air carrier operates that the person may not be permitted to board the aircraft if

- (a) they exhibit a fever and a cough or a fever and breathing difficulties, unless they provide a medical certificate certifying that their symptoms are not related to COVID-19;
- (b) they have, or suspect that they have, COVID-19;
- (c) they have been denied permission to board an aircraft in the previous 14 days for a medical reason related to COVID-19; or
- (d) in the case of a flight departing in Canada, they are the subject of a mandatory quarantine order as a result of recent travel or as a result of a local or provincial public health order.

Confirmation

(3) Every person boarding an aircraft for a flight that a private operator or air carrier operates must confirm to the private operator or air carrier that none of the following situations apply to them:

- (a) the person has, or suspects that they have, COVID-19;

(b) the person has been denied permission to board an aircraft in the previous 14 days for a medical reason related to COVID-19;

(c) in the case of a flight departing in Canada, the person is the subject of a mandatory quarantine order as a result of recent travel or as a result of a local or provincial public health order.

False declaration — obligation of private operator or air carrier

(4) The private operator or air carrier must advise every person that they may be liable to a monetary penalty if they provide answers, with respect to the health check or a confirmation, that they know to be false or misleading.

False declaration — obligations of person

(5) A person who, under subsections (1) and (3), is subjected to a health check and is required to provide a confirmation must

(a) answer all questions; and

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

Exception

(6) A competent adult may answer all questions and provide a confirmation on behalf of a person who is not a competent adult and who, under subsections (1) and (3), is subjected to a health check and is required to give a confirmation.

Observations — private operator or air carrier

(7) During the boarding process for a flight that the private operator or air carrier operates, the private operator or air carrier must observe whether any person boarding the aircraft is exhibiting any symptoms referred to in subsection (1).

Prohibition

9 A private operator or air carrier must not permit a person to board an aircraft for a flight that the private operator or air carrier 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 private operator or air carrier observes that, as the person is boarding, they exhibit

(i) a fever and cough, or

(ii) a fever and breathing difficulties;

(c) the person's confirmation under subsection 8(3) indicates that one of the situations described in paragraphs 8(3)(a), (b) or (c) applies to that person; or

(d) the person is a competent adult and refuses to answer any of the questions asked of them under subsection 8(1) or to give the confirmation under subsection 8(3).

Period of 14 days

10 A person who is not permitted to board an aircraft under section 9 is not permitted to board another aircraft for a period of 14 days after the refusal, unless they provide a medical certificate certifying that any symptoms referred to in subsection 8(1) that they are exhibiting are not related to COVID-19.

COVID-19 Molecular Test — Flights to Canada

Application

11 (1) Sections 12 to 17 apply to a private operator or air carrier operating a flight to Canada departing from any other country and to every person boarding an aircraft for such a flight.

Non-application

(2) Sections 12 to 17 do not apply to persons who are not required under an order made under section 58 of the *Quarantine Act* to provide evidence that they received a result for a COVID-19 molecular test.

Notification

12 A private operator or air carrier must notify every person who intends to board an aircraft for a flight that the private operator or air carrier operates that the person may not be permitted to board the aircraft if they are unable to provide evidence that they received a result for a COVID-19 molecular test.

Evidence — result of test

13 (1) Before boarding an aircraft for a flight, every person must provide to the private operator or air carrier operating the flight evidence that they received either

(a) a negative result for a COVID-19 molecular test that was performed on a specimen collected no more than 72 hours before the aircraft's initial scheduled departure time; or

(b) a positive result for such a test that was performed on a specimen collected at least 14 days and no more than 180 days before the aircraft's initial scheduled departure time.

Evidence — location of test

(2) For the purposes of subsection (1), the COVID-19 molecular test must have been performed in a country or territory that is not listed in Schedule 1.

Evidence — elements

14 Evidence of a result for a COVID-19 molecular test must include

- (a) the person's name and date of birth;
- (b) the name and civic address of the laboratory that administered the test;
- (c) the date the specimen was collected and the test method used; and
- (d) the test result.

False or misleading evidence

15 A person must not provide evidence of a result for a COVID-19 molecular test that they know to be false or misleading.

Notice to Minister

16 A private operator or air carrier that has reason to believe that a person has provided evidence of a result for a COVID-19 molecular test that is likely to be false or misleading must notify the Minister as soon as feasible of the person's name and contact information and the date and number of the person's flight.

Prohibition

17 A private operator or air carrier must not permit a person to board an aircraft for a flight that the private operator or air carrier operates if the person does not provide evidence that they received a result for a COVID-19 molecular test in accordance with the requirements set out in section 13.

Face Masks

Non-application

18 (1) Sections 19 to 24 do not apply to any of the following persons:

- (a) a child who is less than two years of age;
- (b) a child who is at least two years of age but less than six years of age who is unable to tolerate wearing a face mask;
- (c) a person who provides a medical certificate certifying that they are unable to wear a face mask for a medical reason;
- (d) a person who is unconscious;
- (e) a person who is unable to remove their face mask without assistance;
- (f) a crew member;

(g) a gate agent.

Face mask readily available

(2) An adult responsible for a child who is at least two years of age but less than six years of age must ensure that a face mask is readily available to the child before boarding an aircraft for a flight.

Wearing of face mask

(3) An adult responsible for a child must ensure that the child wears a face mask when wearing one is required under section 21 and complies with any instructions given by a gate agent under section 22 if the child

(a) is at least two years of age but less than six years of age and is able to tolerate wearing a face mask; or

(b) is at least six years of age.

Notification

19 A private operator or air carrier must notify every person who intends to board an aircraft for a flight that the private operator or air carrier operates that the person must

(a) be in possession of a face mask before boarding;

(b) wear the face mask at all times during the boarding process, during the flight and from the moment the doors of the aircraft are opened until the person enters the air terminal building; and

(c) 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

20 Every person who is at least six years of age must be in possession of a face mask before boarding an aircraft for a flight.

Wearing of face mask — persons

21 (1) Subject to subsections (2) and (3), a private operator or air carrier must require a person to wear a face mask at all times during the boarding process and during a flight that the private operator or air carrier operates.

Exceptions — person

(2) Subsection (1) does not apply

(a) when the safety of the person could be endangered by wearing a face mask;

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

Exceptions — flight deck

(3) Subsection (1) does not apply to any of 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 private operator or air carrier who is not a crew member and who is performing their duties;
- (d) a pilot, flight engineer or flight attendant employed by a wholly owned subsidiary or a code share partner of the air carrier;
- (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 private operator or air carrier.

Compliance

22 A person must comply with any instructions given by a gate agent, a member of the aerodrome security personnel or a crew member with respect to wearing a face mask.

Prohibition — private operator or air carrier

23 A private operator or air carrier must not permit a person to board an aircraft for a flight that the private operator or air carrier 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 gate agent or a crew member with respect to wearing a face mask.

Refusal to comply

24 (1) If, during a flight that a private operator or air carrier operates, a person refuses to comply with an instruction given by a crew member with respect to wearing a face mask, the private operator or air carrier must

- (a) keep a record of
 - (i) the date and flight number,
 - (ii) the person's name, date of birth and contact information, including the person's home address, telephone number and email address,
 - (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).

Retention period

- (2) The private operator or air carrier must retain the record referred to in paragraph (1)(a) for a period of at least 12 months after the day of the flight.

Ministerial request

- (3) The private operator or air carrier must make the records referred to in paragraph (1)(a) available to the Minister on request.

Wearing of face mask — crew member

25 (1) Subject to subsections (2) and (3), a private operator or air carrier must require a crew member to wear a face mask at all times during the boarding process and during a flight that the private operator or air carrier operates.

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 drinking, eating 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 mask — gate agent

26 (1) Subject to subsections (2) and (3), a private operator or air carrier must require a gate agent to wear a face mask during the boarding process for a flight that the private operator or air carrier operates.

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 drinking, eating or taking oral medications.

Exception — physical barrier

(3) During the boarding process, subsection (1) does not apply to a gate agent if the gate agent is separated from any other person by a physical barrier that allows the gate agent and the other person to interact and reduces the risk of exposure to COVID-19.

Deplaning

Non-application

27 (1) Section 28 does not apply to any of the following persons:

- (a) a child who is less than two years of age;
- (b) a child who is at least two years of age but less than six years of age who is unable to tolerate wearing a face mask;
- (c) a person who provides a medical certificate certifying that they are unable to wear a face mask for a medical reason;
- (d) a person who is unconscious;
- (e) a person who is unable to remove their face mask without assistance;
- (f) a person who is on a flight that originates in Canada and is destined to another country.

Wearing of face mask

(2) An adult responsible for a child must ensure that the child wears a face mask when wearing one is required under section 28 if the child

- (a) is at least two years of age but less than six years of age and is able to tolerate wearing a face mask; or
- (b) is at least six years of age.

Wearing of face mask — person

28 A person who is on board an aircraft must wear a face mask at all times from the moment the doors of the aircraft are opened until the person enters the air terminal building, including by a passenger loading bridge.

Screening Authority

Definition of *screening authority*

29 (1) For the purposes of sections 30 and 33, ***screening authority*** means a person responsible for the screening of persons and goods 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*.

Non-application

(2) Sections 30 to 33 do not apply to any of the following persons:

- (a) a child who is less than two years of age;
- (b) a child who is at least two years of age but less than six years of age who is unable to tolerate wearing a face mask;
- (c) a person who provides a medical certificate certifying that they are unable to wear a face mask for a medical reason;
- (d) a person who is unconscious;
- (e) a person who is unable to remove their face mask without assistance;
- (f) a member of emergency response provider personnel who is responding to an emergency;
- (g) a peace officer who is responding to an emergency.

Wearing of face mask

(3) An adult responsible for a child must ensure that the child wears a face mask when wearing one is required under subsection 30(2) and removes it when required by a screening officer to do so under subsection 30(3) if the child

- (a) is at least two years of age but less than six years of age and is able to tolerate wearing a face mask; or
- (b) is at least six years of age.

Requirement — passenger screening checkpoint

30 (1) A screening authority must notify a person who is subject to screening at a passenger screening checkpoint that they must wear a face mask at all times during screening.

Wearing of face mask — person

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

Requirement to remove face mask

(3) A person who is required by a screening officer to remove their face mask during screening must do so.

Wearing of face mask — screening officer

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

Requirement — non-passenger screening checkpoint

31 (1) A person who presents themselves at a non-passenger screening checkpoint to enter into a restricted area must wear a face mask at all times.

Wearing of face mask — screening officer

(2) Subject to subsection (3), a screening officer must wear a face mask at all times at a non-passenger screening checkpoint.

Exceptions

(3) Subsection (2) does not apply

- (a) when the safety of the screening officer could be endangered by wearing a face mask; or
- (b) when the screening officer is drinking, eating or taking oral medications.

Exception — physical barrier

32 Sections 30 and 31 do not apply to a person, including a screening officer, if the person is two metres or less from another person and both persons are separated by a physical barrier that allows them to interact and reduces the risk of exposure to COVID-19.

Prohibition — passenger screening checkpoint

33 (1) A screening authority must not permit a person who has been notified to wear a face mask and refuses to do so to pass beyond a passenger screening checkpoint into a restricted area.

Prohibition — non-passenger screening checkpoint

(2) A screening authority must not permit a person who refuses to wear a face mask to pass beyond a non-passenger screening checkpoint into a restricted area.

Designated Provisions

Designation

34 (1) The provisions of this Interim Order set out in column 1 of Schedule 2 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 Schedule 2 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 will be taken against the person on whom the notice in respect of that contravention 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

35 ***The Interim Order Respecting Certain Requirements for Civil Aviation Due to COVID-19, No. 35, made on July 29, 2021, is repealed.***

SCHEDULE 1

(Subsection 13(2))

Countries and Territories

Name

India

SCHEDULE 2

(Subsections 34(1) and (2))

Designated Provisions

Column 1 Designated Provision	Column 2 Maximum Amount of Penalty (\$)	
	Individual	Corporation
Subsection 2(1)	5,000	25,000
Subsection 2(2)	5,000	25,000
Subsection 2(3)	5,000	25,000
Subsection 2(4)	5,000	25,000
Subsection 3(1)	5,000	
Subsection 3(2)	5,000	
Section 4	5,000	25,000
Section 5	5,000	25,000
Subsection 8(1)	5,000	25,000
Subsection 8(2)	5,000	25,000
Subsection 8(3)	5,000	
Subsection 8(4)	5,000	25,000
Subsection 8(5)	5,000	
Subsection 8(7)	5,000	25,000
Section 9	5,000	25,000
Section 10	5,000	
Section 12	5,000	25,000
Subsection 13(1)	5,000	
Section 15	5,000	
Section 16	5,000	25,000
Section 17	5,000	25,000
Subsection 18(2)	5,000	
Subsection 18(3)	5,000	
Section 19	5,000	25,000
Section 20	5,000	
Subsection 21(1)	5,000	25,000
Section 22	5,000	
Section 23	5,000	25,000
Subsection 24(1)	5,000	25,000
Subsection 24(2)	5,000	25,000
Subsection 24(3)	5,000	25,000
Subsection 25(1)	5,000	25,000
Subsection 26(1)	5,000	25,000
Subsection 27(2)	5,000	
Section 28	5,000	
Subsection 29(3)	5,000	
Subsection 30(1)		25,000
Subsection 30(2)	5,000	
Subsection 30(3)	5,000	

Subsection 30(4)	5,000	
Subsection 31(1)	5,000	
Subsection 31(2)	5,000	
Subsection 33(1)		25,000
Subsection 33(2)		25,000
