

# Transport Canada's face mask requirements for persons boarding flights to, from, and within Canada

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**Note:** Since this article was published, Transport Canada has revised the air travel requirements implemented by *Interim Order Respecting Certain Requirements for Civil Aviation Due to COVID-19, No. 16* (Interim Order No. 16) on two occasions. The latest version is *Interim Order Respecting Certain Requirements for Civil Aviation Due to COVID-19, No. 18* (Interim Order No. 18). However, the requirements regarding the wearing of face masks implemented by Interim Order No. 18 do not materially differ from those implemented by Interim Order No. 16.

We **previously reported** on Transport Canada's requirements regarding the wearing of face masks for persons boarding flights to Canada, as implemented by *Interim Order to Prevent Certain Persons from Boarding Flights to Canada due to COVID-19, No. 8*. Similar requirements applicable to persons boarding flights in Canada were also implemented via parallel Interim Order.

The requirements regarding the wearing of face masks applicable to persons boarding flights in Canada, as well as those applicable to persons boarding flights to Canada, have since been consolidated in a series of new Interim Orders. The current Interim Order in force is Interim Order No. 16.

Interim Order No. 16 now defines a face mask as any non-medical mask or face covering that: (a) is made of multiple layers of tightly woven materials such as cotton or linen; (b) completely covers a person's nose, mouth and chin without gaping; and (c) can be secured to a person's head with ties or ear loops.

It is also permissible for the portion of a face mask in front of a wearer's lips to be made of transparent material that permits lip reading if the rest of the face mask is made of multiple layers of tightly woven materials (e.g., cotton or linen), **and** there is a tight seal between the transparent material and the rest of the face mask.

## Notification

Interim Order No. 16 states that a private operator or air carrier must notify every person who intends to board an aircraft for a flight that the person must:

1. Be in possession of a face mask before boarding;
2. 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
3. Comply with any instructions given by a gate agent or a crew member with respect to wearing a face mask.

## Possession of face mask

Interim Order No. 16 states that 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. An adult responsible for a child who is between the ages of two and six must

ensure that a face mask is readily available to the child before boarding an aircraft for a flight.

# Wearing of face mask during boarding and during flight

Interim Order No. 16 states that 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.

This requirement does not apply under the following exceptional circumstances:

1. When the safety of the person could be endangered by wearing a face mask;
2. When the person is drinking or eating, unless a crew member instructs the person to wear a face mask;
3. When the person is taking oral medications;
4. 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
5. 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.

An adult responsible for a child must ensure that the child wears a face mask during the boarding process and during a flight, and complies with any instruction given by a gate agent, if the child is:

1. Between the ages of two and six and is able to tolerate wearing a face mask; or
2. At least six years of age.

## Compliance

Interim Order No. 16 states that 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 the wearing of a face mask.

A private operator or air carrier is prohibited from permitting a person to board an aircraft for a flight if the person:

1. Is not in possession of a face mask; or
2. Refuses to comply with an instruction given by a gate agent or a crew member with respect to wearing a face mask.

If, during a flight, a person refuses to comply with an instruction given by a crew member with respect to the wearing of a face mask, the private operator or air carrier is required to do the following:

1. Keep a record of the person's refusal, and retain the record for a period of at least 12 months after the day of the flight;
2. Inform the Minister of Transport of the refusal as soon as it is feasible to do so; and
3. Make a record of the refusal available to the Minister of Transport upon request.

## Blanket exemptions

All of the requirements noted above do not apply to the following persons:

1. A child who is less than two years of age;
2. 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;

3. A person who provides a medical certificate certifying that they are unable to wear a face mask for a medical reason;
4. A person who is unconscious;
5. A person who is unable to remove their face mask without assistance;
6. A crew member; and
7. A gate agent.

## Wearing of face mask during deplaning

Interim Order No. 16 states that 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.

This requirement does not apply to the following persons:

1. A child who is less than two years of age;
2. A child between the ages of two and six who is unable to tolerate wearing a face mask;
3. A person who provides a medical certificate certifying that they are unable to wear a face mask for a medical reason;
4. A person who is unconscious;
5. A person who is unable to remove their face mask without assistance;
6. A person who is on a flight that originates in Canada and is destined to another country, including the United States.

An adult responsible for a child must ensure that the child wears a face mask during deplaning, if the child is:

1. Between the ages of two and six and is able to tolerate wearing a face mask; or
2. At least six years of age.

## Face mask requirements during screening

Interim Order No. 16 states that 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. In this regard, a person who is the subject of screening must wear a face mask at all times during screening, unless:

1. 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; or
2. The person is required by a screening officer to remove their face mask.

A person who has been notified to wear a face mask and refuses to do so will not be permitted to pass beyond a passenger screening checkpoint into a restricted area.

The above requirements do not apply to the following persons:

1. A child who is less than two years of age;
2. A child who is between the ages of two and six who is unable to tolerate wearing a face mask;
3. A person who provides a medical certificate certifying that they are unable to wear a face mask for a medical reason;
4. A person who is unconscious;
5. A person who is unable to remove their face mask without assistance;
6. A member of emergency response provider personnel who is responding to an emergency; and

7. A peace officer who is responding to an emergency.

An adult responsible for a child must ensure that the child wears a face mask during screening, and removes the face mask when required to do so by a screening officer, if the child is:

1. Between the ages of two and six and is able to tolerate wearing a face mask; or
2. At least six years of age.

## Consequences of non-compliance

Private operators or air carriers, screening authorities, airport operators, as well as individuals, are subject to monetary penalties for non-compliance with Interim Order No. 16.

The following will subject a private operator or air carrier, screening authority, or airport operator, to a monetary penalty:

1. Failing to notify every person who intends to board an aircraft for a flight that the person must:
  - a. Be in possession of a face mask prior to 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.
2. Failing to require a person to wear a face mask at all times during the boarding process and during a flight (unless one of the enumerated exceptional circumstances applies).
3. Permitting a person to board an aircraft for a flight if the person:
  - a. Is not in possession of a face mask; or
  - b. Refuses to comply with an instruction given by a gate agent or a crew member with respect to wearing a face mask.
4. Failing to do any of the following upon a person's refusal to comply with an instruction given by a crew member with respect to the wearing of a face mask during a flight:
  - a. Keep a record of the person's refusal, and retain the record for a period of at least 12 months after the day of the flight;
  - b. Inform the Minister of Transport of the refusal as soon as it is feasible to do so; and
  - c. Make a record of the refusal available to the Minister of Transport upon request.
5. Failing to 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 (monetary penalty applies to corporations only).
6. Permitting 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 (monetary penalty applies to corporations only).

Unless otherwise indicated, the maximum penalties permitted for the above contraventions are CA\$5,000.00 for an individual, and CA\$25,000.00 for a corporation.

The following will subject a person to a monetary penalty:

1. Failing to be in possession of a face mask prior to boarding an aircraft for a flight (applies only to a person who is at least six years of age).
2. Failing to comply with any instructions given by a gate agent, a member of the aerodrome security personnel, or a crew member, with respect to the wearing of a face mask.
3. Failing to wear a face mask at all times during deplaning.
4. Failing to ensure that a child (for whom an adult is responsible) wears a face mask during deplaning.
5. Failing to wear a face mask at all times during screening (unless exception applies), and/or remove their face mask

when required to do so by a screening officer.

6. Failing to ensure that a child (for whom an adult responsible) wears a face mask during screening, and/or removes the face mask when required to do so by a screening officer.

The maximum penalties for the above contraventions are CA\$5,000.00.

For more information about this evolving topic, please contact **Jonathan Mor** of Dentons' Immigration group.

## Your Key Contacts



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