

Whereas the annexed *Interim Order Respecting Certain Requirements for Civil Aviation Due to COVID-19, No. 78* 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 under sections 4.71 and 4.9, paragraphs 7.6(1)(a) and (b) and section 7.7 of the *Aeronautics Act*;

Whereas, under subsection 6.41(1.1) of the *Aeronautics Act*, the Minister of Transport authorized the Deputy Minister of Transport to make an interim order that contains any provision that may be contained in a regulation made under Part I of that Act to deal with a significant risk, direct or indirect, to aviation safety or the safety of the public;

And whereas, in accordance with subsection 6.41(1.2) of that Act, the Minister of Transport has consulted with the persons and organizations that the Minister considers appropriate in the circumstances before making the annexed Order;

Therefore, the Deputy Minister of Transport makes the annexed *Interim Order Respecting Certain Requirements for Civil Aviation Due to COVID-19, No. 78* under subsection 6.41(1.1) of the *Aeronautics Act*.

Ottawa, February 23, 2023

Le sous-ministre des Transports,

Original signed by
Arun Thangaraj
Deputy 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)
 - 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. 78

Interpretation

Definitions

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

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 COVID-19 coronavirus disease. (*COVID-19*)

COVID-19 antigen test means a COVID-19 screening or diagnostic immunoassay that

- (a) detects the presence of a viral antigen indicating the presence of COVID-19;
- (b) is authorized for sale or distribution in Canada or in the jurisdiction in which it was obtained;
- (c) if the test is self-administered, is observed and produces a result that is verified
 - (i) in person by an accredited laboratory or testing provider, or
 - (ii) in real time by remote audiovisual means by the accredited laboratory or testing provider that provided the test; and
- (d) if the test is not self-administered, is performed by an accredited laboratory or testing provider. (*test antigénique de la COVID-19*)

COVID-19 molecular test means a COVID-19 screening or diagnostic test, including a test performed using the method of polymerase chain reaction (PCR) or reverse transcription loop-mediated isothermal amplification (RT-LAMP), that

- (a) if the test is self-administered, is observed and produces a result that is verified
 - (i) in person by an accredited laboratory or testing provider, or
 - (ii) in real time by remote audiovisual means by the accredited laboratory or testing provider that provided the test; or
- (b) if the test is not self-administered, is performed by an accredited laboratory or testing provider. (*test moléculaire de la COVID-19*)

COVID-19 test means either

- (a) a COVID-19 molecular test, or

(b) a COVID-19 antigen test. (*test relatif à la COVID-19*)

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

testing provider means

(a) a person who may provide COVID-19 screening or diagnostic testing services under the laws of the jurisdiction where the service is provided; or

(b) an organization, such as a telehealth service provider or pharmacy, that may provide COVID-19 screening or diagnostic testing services under the laws of the jurisdiction where the service is provided and that employs or contracts with a person referred to in paragraph (a). (*fournisseur de services de tests*)

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.

COVID-19 Tests

Application

2 This Interim Order applies to a private operator or air carrier operating a flight referred to in subsection 2(1) of the *Minimizing the Risk of Exposure to COVID-19 in Canada Order*.

Prohibition

3 (1) A private operator or air carrier must not permit a person to board an aircraft for a flight that they operate if the person does not provide evidence that they received

(a) a negative result for a COVID-19 test that was performed on a specimen collected no more than 2 days before the flight's initial scheduled departure time; or

(b) a positive result for a COVID-19 test that was performed on a specimen collected at least 10 days and no more than 90 days before the flight's initial scheduled departure time.

Exception

(2) However, a person listed in any of paragraphs 2(2)(a) to (g) of the *Minimizing the Risk of Exposure to COVID-19 in Canada Order* is not required to provide the evidence referred to in subsection (1).

Evidence of COVID-19 test

4 Evidence of a result for a COVID-19 test must include

- (a) the name and date of birth of the person from whom the specimen was collected for the test;
- (b) the name and civic address of the accredited laboratory or the testing provider that performed or observed the test and verified the result;
- (c) the date the specimen was collected and the test method used; and
- (d) the test result.

Designated Provision

Designation

5 (1) The provision of this Interim Order set out in column 1 of the schedule is designated as a provision 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 provision 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

6 *The Interim Order Respecting Certain Requirements for Civil Aviation Due to COVID-19, No. 77, made on February 10, 2023, is repealed.*

SCHEDULE

(Subsections 5(1) and (2))

Designated Provision

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