

Negative COVID-19 Test Required to Board Flights to Canada

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Effective January 7, 2021, all international passengers over the age of five who are flying to Canada from another country are required to provide evidence of a negative COVID-19 test to the air carrier before boarding their flight to Canada. Failure to do so will mean an automatic denial of boarding by the air carrier operating the flight to Canada.

Importantly, the new testing requirements announced by Transport Canada are set out in the *Interim Order Respecting Certain Requirements for Civil Aviation Due to COVID-19, No. 18* (the Interim Order) made pursuant to the *Aeronautics Act*. Therefore, the testing requirements do not apply to travellers entering Canada using other means of transportation (for example, those driving across the Canada-US land border).

Further, the new testing requirements do not replace Canada's existing COVID-19 travel restrictions or quarantine requirements made by the Minister of Health under the *Quarantine Act*. Rather, the testing requirements are an additional layer of protection intended to support the preventative measures that are currently in place to prevent the transmission and spread of COVID-19 and new variants of the virus into Canada.

Type and Timing of Testing

Unless exempt, all travellers over the age of five, regardless of citizenship, entering Canada by air from another country are required to provide written or electronic documentation showing that they received a negative result from a COVID-19 test that was conducted within 72 hours prior to their scheduled boarding. Tests taken outside the 72-hour window are not valid for travel.

Currently, there are only two acceptable types of COVID-19 tests: (1) a molecular polymerase chain reaction (or PCR) test; and (2) a Loop-mediated Isothermal Amplification (LAMP) test. All other types of tests, such as an antigen test or a Diffractive Phase Interferometry test are not acceptable. For the results of approved types of tests to be valid, the tests must also be performed by a laboratory accredited by an external organization (e.g., a government, a professional association or ISO accreditation).

The negative laboratory test result must include the following data elements:

- Traveller name and date of birth

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- Name and civic address of the laboratory/clinic/facility that administered the test
- The date on which the test was conducted
- The method of test conducted (PCR or LAMP)
- The test result

Exemptions from the Testing Requirement

Transport Canada has indicated that the following travellers are currently exempt from the testing requirements:

- children who are four years of age or younger (i.e., children who are five on the day of their travel must have proof of a negative COVID-19 test);
- air crew members or a person who seeks to enter Canada only to become such a crew member;
- transiting passengers (not entering Canada through a border port);
- emergency, law enforcement or border personnel;
- specific individuals or groups identified by Canada's Chief Public Health Officer or the Minister of Health; and
- Individuals or a group of individuals that have been granted an extra-ordinary exemption from Transport Canada.

The Interim Order contains two lists of countries for which these new requirements have exemptions:

- **Schedule 1** identifies Haiti and Saint Pierre et Miquelon as countries where there is no requirement to demonstrate or validate the PCR or LAMP test at boarding, due to the absence or near absence of testing in those locations. The small number of travellers arriving in Canada without a negative PCR test will be subject to additional measures from federal Quarantine Officers. They will typically have a choice between taking a PCR test upon arrival or being directed to a federal quarantine facility at the point of arrival.
- **Schedule 2** lists countries where testing capacity is scarce and for which the 72-hour window is not feasible. For these locations, and only until January 14, additional flexibilities have been incorporated to give travellers an additional 24 hours (up to 96 hours) for the test validity period prior to departure of their flight to Canada.

Enforcement Measures

Making a false declaration under the Interim Order carries the potential for a fine of up to \$5,000 for individuals. If an air carrier suspects that a traveller has provided false or misleading information related to their COVID-19 test results, they are required to notify Transport Canada.

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Air carriers failing to comply with the requirements of the Interim Order or other regulatory requirements under the *Aeronautics Act* could be subject to a fine of up to \$25,000.

Violating any instructions provided to a traveller when entering Canada is an offence under the *Quarantine Act* and could lead to up to six months in prison and/or \$750,000 in fines.

This publication is a general summary of the law. It does not replace legal advice tailored to your specific circumstances.