

Australian Capital Territory

Public Health (Mandatory Face Masks – Canberra Airport and Domestic Flights) Emergency Direction 2021

Notifiable Instrument NI2021-38

made under the

Public Health Act 1997, s 120 (Emergency actions and directions)

1. Name of instrument

This instrument is the *Public Health (Mandatory Face Masks – Canberra Airport and Domestic Flights) Emergency Direction 2021*.

2. Commencement

This instrument commences at 11.59 pm on 22 January 2021.

3. Public Health Emergency Direction

I, Dr Kerry Coleman, Chief Health Officer, consider it necessary or desirable to alleviate the emergency declared under the *Public Health (Emergency) Declaration 2020 (No 1)* [NI2020-153] (the **declared emergency**) on 16 March 2020, to give the directions as set out in the schedule.

4. Duration

This Direction is in force for the period ending on the day the declared emergency (as extended or further extended) ends, unless it is earlier revoked.

Dr Kerry Coleman
Chief Health Officer

21 January 2021

Public Health Emergency Direction

Public Health Act 1997

*Made under the Public Health Act 1997,
section 120 (Emergency actions and directions)*

I, Dr Kerryn Coleman, Chief Health Officer, consider it necessary or desirable to alleviate the emergency declared under the *Public Health (Emergency) Declaration 2020 (No 1)* [NI2020-153] (the **declared emergency**) on 16 March 2020, to give the directions as set out below.

The purpose of this Direction is to limit the spread of coronavirus disease 2019 (**COVID-19**), caused by the novel coronavirus SARS-CoV-2.

In making these directions I have had regard to relevant human rights and I am satisfied that the limitations imposed as a result of these Directions are both demonstrably justifiable in a free and democratic society and necessary to protect the ACT community from the serious public health risk posed by COVID-19.

PART 1 – FACE MASKS REQUIRED AT CANBERRA AIRPORT

Direction

1. Subject to paragraphs 2 and 3, a person at **Canberra airport** must at all times:
 - a. carry a **face mask**; and
 - b. wear a **face mask**.

2. The requirement to carry a **face mask** under paragraph 1 does not apply:
 - a. to infants and children under 12 years of age; or
 - b. to a person who has a physical or mental health illness or condition, or disability, which makes wearing a **face mask** unsuitable; or
Examples: Persons who have:
 - *obstructed breathing,*
 - *a serious skin condition on their face,*
 - *an intellectual disability,*
 - *a mental health illness, or*
 - *who have experienced trauma.*
 - c. to a person who is wearing a **face mask**.

3. The requirement to wear a **face mask** under paragraph 1 does not apply:
- a. to infants and children under 12 years of age; or
 - b. to a person who has a physical or mental health illness or condition, or disability, which makes wearing a **face mask** unsuitable; or
Examples: see examples listed under paragraph 2(b) above;
 - c. to a person during an emergency or while any of the following apply:
 - i. the person is communicating with a person who has a hearing impairment and visibility of the mouth is essential for communication; or
 - ii. the nature of the person's work or training means that wearing a **face mask** creates a risk to their health and safety; or
 - iii. the nature of the person's work or training means that clear enunciation or visibility of the mouth is essential; or
Examples: training new staff, making announcements or live broadcasting.
 - iv. the person is consuming food, drink or medicine; or
 - v. the person is undergoing medical care or treatment to the extent that such care or treatment requires that no **face mask** be worn; or
 - vi. the person is asked to remove the **face mask** to ascertain identity; or
Examples: a person may be asked by police, security, or airport staff to remove a face mask to ascertain identity or when purchasing alcohol or cigarettes.
 - vii. removal of the **face mask** is required or authorised by law; or
 - viii. where wearing a **face mask** is not safe in all the circumstances; or
 - ix. the person is an **airport worker** and is not interacting directly with passengers or members of the public.
4. A person who removes their **face mask** in a circumstance under paragraph 3(c) must resume wearing the **face mask** as soon as practicable after the circumstance ends.
Examples: a person must resume wearing a face mask as soon as they finish eating, making an announcement or receiving medical care.

PART 2 - FACE MASKS TO BE WORN ON DOMESTIC COMMERCIAL FLIGHTS INTO AND OUT OF CANBERRA AIRPORT

5. Subject to paragraphs 6 and 7, a person on a **domestic commercial aircraft** must at all times on the aircraft:
- a. carry a **face mask**; and
 - b. wear a **face mask**

while the aircraft is located at the **Canberra airport** (including when the aircraft is landing at, or taking off from, the airport), or flying in **Australian Capital Territory airspace**.



6. The requirement to carry a **face mask** under paragraph 5 does not apply:
 - a. to an infant or child under 12 years of age; or
 - b. to a person who has a physical or mental health illness or condition, or disability, which makes wearing a **face mask** unsuitable.

Examples: *Persons who have:*

- *obstructed breathing,*
 - *a serious skin condition on their face,*
 - *an intellectual disability,*
 - *a mental health illness, or*
 - *who have experienced trauma.*
- c. to a person who is wearing a **face mask**.
7. The requirement to wear a **face mask** under paragraph 5 does not apply:
 - a. to a person listed in paragraph 3(a) or (b); or
 - b. in any of the circumstances listed in paragraph 3 (c) for only so long as those circumstances apply; or
 - c. if the person is a member of the **air crew** of an aircraft who is not reasonably likely to interact directly with passengers, including because the person is on an aircraft with no passengers boarded; or

Example – *a pilot is not required to wear a **face mask** while in the cockpit.*

 - d. if the person is an **airport worker** who is not reasonably likely to interact directly with passengers on an aircraft, including because the person is on an aircraft with no passengers boarded.
 8. A person who removes their **face mask** under paragraph 7(b) must resume wearing the **face mask** as soon as practicable after the circumstance ends.

PART 3 – OTHER DIRECTIONS

9. An **authorised person** may ask a person in the **Canberra airport** or on a **domestic commercial aircraft** located at the **Canberra airport** for any information necessary to determine whether the person is subject to this Direction.
10. Any person in the **Canberra airport** or on a **domestic commercial aircraft** located at the **Canberra airport** must comply with any request made under paragraph 9 by an **authorised person**.
11. An **authorised person** may direct a person who is subject to this Direction to do such things as are reasonably necessary to comply with this Direction.

Examples of directions:

*An authorised person may direct a person to put on a **face mask**.*



*An authorised person may direct a person to explain the nature of a physical or mental health illness or condition, or disability, that prevents the person from wearing a **face mask**.*

12. Any person subject to this Direction must comply with any request under paragraph 11 by an **authorised person**.

PART 4 – MATTERS RELEVANT TO THIS DIRECTION

13. The Chief Health Officer may, in writing and subject to any conditions that the Chief Health Officer considers necessary, exempt a person from this Direction.

Note: if the Chief Health Officer exempts a person from this Direction, the Chief Health Officer may give such other direction to the person as the Chief Health Officer considers necessary or desirable to alleviate the declared emergency.

14. An **authorised person** may, in writing and subject to any conditions that the **authorised person** considers necessary, exempt a person from the requirement to wear a **face mask**.

Enforcement

15. If a person fails to comply with this Direction, an **authorised person** may direct the person to do such things as are reasonably necessary to comply with this Direction including, upon request, to produce proof of identification to the **authorised person**.
16. If a person fails to comply with any direction given under paragraph 15, then the **authorised person** may take all reasonable steps to enforce compliance with the direction.

Definitions

For the purposes of these directions:

17. **Air crew** means a person on a **domestic commercial aircraft** that lands or takes off in the Australian Capital Territory who is:
 - a. a pilot, crew member providing essential safety or maintenance functions or cabin crew member actively servicing the flight; or
 - b. an off-shift pilot, crew member providing essential safety or maintenance functions or cabin crew member travelling to reposition to commence duty in Australian Capital Territory or another State of Territory; or
 - c. an aeromedical services crew member providing patient transport or emergency medical care to a patient; or
 - d. an off-shift aeromedical services crew member who is travelling as a passenger on an aircraft to reposition to commence duty in the Australian Capital Territory or another State of Territory.



18. **Airport worker** includes:

- a. an engineer or other technical staff; and
- b. a cleaner; and
- c. a baggage handler; or
- d. a person involved in the delivery or removal of food, goods or other things in connection with an aircraft; or
- e. an employee of an airline other than **air crew**; or
- f. a person working in a café, bar, shop or other retail store; or
- g. a person providing airport security services; or
- h. a person providing law enforcement or border security services.

19. **Australian Capital Territory airspace** means the airspace located over the Australian Capital Territory.

20. **Authorised person** means an authorised person under section 121 of the *Public Health Act 1997*.

21. **Canberra airport** means:

- a. all indoor areas within the terminal; and
- b. any outdoor areas (including the tarmac) when used for the purposes of embarking or disembarking from a domestic commercial aircraft.

Note: the **Canberra airport** does not include the taxi rank.

22. **Domestic commercial aircraft** means an aircraft being used to provide passengers with transportation, on a commercial basis, only within Australia.

23. **Face mask** means a mask or other covering that fits securely around the face and is designed or made to be worn over the nose and mouth to provide the wearer with protection against infection (but does not include a face shield).

Note – a scarf or bandana is not a face mask.

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Dr Kerryn Coleman

Chief Health Officer

21 January 2021



PENALTIES

Section 120 (4) of the *Public Health Act 1997* provides:

A person must not, without reasonable excuse, fail to comply with a direction under this section.

Maximum Penalty:

In the case of a natural person, \$8,000 (50 penalty units).

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