



Dear Cardholders

The *Transport Security Amendment (Serious Crime) Act 2021* (the Act) seeks to prevent the exploitation of the Australian aviation and maritime transport sectors by serious criminals. The Act strengthens the aviation and maritime security identification card (ASIC and MSIC) schemes through the introduction of new tiered and harmonised eligibility criteria (the new criteria) focused on combating serious crime.

It is anticipated that from **23 August 2021** a person's eligibility to hold an ASIC and MSIC and work in the most secure areas of Australia's airports and seaports will be assessed against the new criteria. The vast majority of current ASIC and MSIC holders will be unaffected by the new criteria, however, a small number of existing cardholders will need to report prior convictions to the Department of Home Affairs or their ASIC/MSIC issuing body.

Overview of the New Tiered and Harmonised Eligibility Criteria

The new criteria will be the same for both ASICs and MSICs. A diagram explaining the new criteria is attached for your information with a summary provided below:

Table 1: Summary of tiers, thresholds and appeal rights

Tier	Impact on Eligibility	Appeal Rights
Tier 1 – terrorism and the most serious criminal offences	If you have been convicted of a Tier 1 offence you will be <u>disqualified</u> from holding an ASIC or MSIC.	You can apply to the Administrative Appeals Tribunal (AAT) for review of the decision.
Tier 2 – serious criminal offences directly relevant to aviation or maritime security	If you have been convicted of a Tier 2 offence you will be <u>ineligible</u> to hold an ASIC or MSIC.	You can apply to the Department of Home Affairs for a discretionary card or to the AAT for review of the decision.
Tier 3 – all other serious criminal offences	If you have been convicted of AND sentenced to imprisonment for a Tier 3 offence you will be <u>ineligible</u> to hold an ASIC or MSIC.	You can apply to the Department of Home Affairs for a discretionary card or to the AAT for review of the decision.

In addition to making the new criteria the same for both the ASIC and MSIC, the Government has added several new offences specifically targeted towards fighting serious crime at Australia's airports, seaports and offshore facilities.

Table 2: Summary of new offences

Tier	Offence
Tier 1	An offence relating to involvement with a criminal organisation or gang.
Tier 2	An offence relating to questioning conduct by a person or body investigating serious crime or corruption. An offence under the <i>Aviation Transport Security Act 2004</i> that is punishable by imprisonment (whether or not the person is in fact sentenced to imprisonment). An offence under the <i>Maritime Transport and Offshore Facilities Security Act 2003</i> that is punishable by imprisonment (whether or not the person is in fact sentenced to imprisonment).
Tier 3	Unauthorised use, access, modification or destruction of data or electronic communications. Offences involving the sexual abuse or exploitation of a child. Assaulting or resisting a law enforcement officer or other public officer. Dealing with proceeds of crime. Tax evasion.

When the New Tiered and Harmonised Eligibility Criteria will be used:

When you apply for an ASIC or MSIC, your issuing body collects all the relevant documentation and verifies your identity to then make an application to the Department of Home Affairs for a background check. The new criteria will be used to assess any **application for an ASIC/MSIC background check** made on, or after, 23 August 2021.

What do I need to do?

Once the new criteria is implemented on the 23 August 2021, all existing cardholders will have **30 days** to self-report against the new criteria to either your issuing body, or the Department of Home Affairs (auscheck@homeaffairs.gov.au). Under the new requirement, cardholders and applicants who do not self-report relevant offences within this 30 day period may be fined up to \$4,440.

If you have a conviction for any of the new offences or if you're not sure whether a conviction relates to the new criteria, you are encouraged to speak to your issuing body, or the Department of Home Affairs, to avoid any penalty.

Please note – that the 30 day period is a temporary measure to assist the implementation of the new criteria, after which the existing requirement of reporting a conviction within 7 days will apply.

Applications for Discretionary Cards

If you have a conviction for one of the new offences, you may be eligible to apply for consideration for a discretionary card. The table below sets out the eligibility criteria that will apply in these circumstances.

Table 3: Transitional arrangements for discretionary cards

Date of Application for Background Check	Date of Application for a Discretionary Card	Which Eligibility Criteria Apply?
Prior to 23 August 2021	Prior to 23 August 2021	Old Eligibility Criteria
Prior to 23 August 2021	On or after 23 August 2021	Old Eligibility Criteria
On or after 23 August 2021	On or after 23 August 2021	New Tiered and Harmonised Eligibility Criteria

If you have any questions or concerns, we encourage you to speak to your issuing body who can provide assistance.

Yours sincerely

Identity Card Policy Section
Maritime, Training and Card Security Branch | Aviation and Maritime Security Division
Strategy and Law Enforcement Group
Department of Home Affairs

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Aviation - current
Aviation-security-relevant offences

Aviation and Maritime Security Identification Card Schemes
Proposed Harmonised Eligibility Criteria (aviation/maritime -security-relevant offences)

Maritime – current
Maritime-security-relevant offences

Disqualified
There are no disqualifying offences prescribed under the current aviation-security-relevant offences

Adverse (imprisonment)
Aviation-security-relevant offences
1. An offence involving dishonesty
2. An offence involving violence or a threat of violence
3. An offence involving intentional damage to property or a threat of damage to property
4. An offence constituted by the production, possession, supply, import or export of a substance that is:
(a) a narcotic substance within the meaning of the *Customs Act 1901*; or
(b) a drug, within the meaning of:
(i) regulation 10 of the *Customs (Prohibited Exports) Regulations 1958*; or
(ii) regulation 5 of the *Customs (Prohibited Imports) Regulations 1956*
5. An offence, of a kind dealt with in Part II of the *Crimes Act 1914*, against the Government of:
(a) the Commonwealth or a State or Territory; or
(b) a country or part of a country other than Australia
6. An offence against Part 2 of the *Crimes (Aviation) Act 1991*
7. An offence against Part 5.3 of the *Criminal Code*
8. An offence constituted by the production, possession, supply, import or export of explosives or explosive devices

Disqualified
Tier 1. Disqualifying Offences (Person convicted of offence)
1.1 Terrorism **A M**
1.2 Treason, urging violence and advocating terrorism or genocide, espionage or selling national secrets **M**
1.3 Engagement in hostile activities in a foreign country or involvement with foreign armed forces **A M**
1.4 Weapons of mass destruction **M**
1.5 Hijacking or destruction of a government or commercial aircraft, vessel or offshore facility **A M**
1.6 Endangering a government or commercial aircraft, airport, vessel, port or offshore facility **A M**
1.7 Piracy at sea **M**
1.8 An offence relating to involvement with a criminal organisation or gang ♦
1.9 Smuggling or trafficking of people **M**

Adverse (Conviction)
Tier 2. Offences for which a conviction is adverse
2.1 Threatening or assaulting persons in or on an aircraft, airport, vessel, port or offshore facility **A M**
2.2 Theft of a government or commercial aircraft or vessel **A M**
2.3 An offence relating to questioning conduct by a person or body investigating serious crime or corruption ♦
2.4 An offence under the *Aviation Transport Security Act 2004* that is punishable by imprisonment (whether or not the person is in fact sentenced to imprisonment) ♦
2.5 An offence under the *Maritime Transport and Offshore Facilities Security Act 2003* that is punishable by imprisonment (whether or not the person is in fact sentenced to imprisonment) ♦

Adverse (Imprisonment)
Tier 3. Offences for which a sentence of imprisonment is adverse
3.1 Murder and manslaughter **A M**
3.2 An offence relating to firearms, ammunition, weapons or use of items as a weapon **A M**
3.3 An offence relating to explosives or explosive devices **A M**
3.4 Production, possession, supply, importation or exportation of an illegal drug or controlled substance **A M**
3.5 Illegal importation or exportation of goods, fauna or flora **M**
3.6 Bribery or corruption **A M**
3.7 Perjury or otherwise relating to perversion of the course of justice **M**
3.8 An offence relating to use of a false identity or identity documents **M**
3.9 An offence relating to interference with goods under Customs control **M**
3.10 Unauthorised use, access, modification or destruction of data or electronic communications ♦
3.11 Hostage-taking, deprivation of liberty or false imprisonment **M**
3.12 Offences involving the sexual abuse or exploitation of a child ♦
3.13 Racial hatred or racial vilification **M**
3.14 Assaulting or resisting a law enforcement officer or other public officer ♦
3.15 Impersonation of a law enforcement officer or other public officer **A M**
3.16 Extortion or blackmail **M**
3.17 Dealing with proceeds of crime ♦
3.18 Currency violations and money laundering **M**
3.19 Arson **M**
3.20 Theft (other than offences referred to in tiers 1 and 2) **A M**
3.21 Forgery or fraud **A M**
3.22 Assaultive offences, including indecent or sexual assaults (other than offences referred to in tiers 1 and 2) **M**
3.23 Offences relating to intimidation (other than offences referred to in tiers 1 and 2) **A**
3.24 Offences relating to endangerment of others (other than offences referred to tiers 1 and 2), but not including traffic offences except where a vehicle is used as a weapon **A**
3.25 Affray or riot **M**
3.26 Tax evasion ♦

Disqualified
1.1 terrorism
1.2 treason, sedition, espionage or selling national secret
1.3 weapon of mass destruction
1.4 hijacking or destruction of an aircraft, vessel or offshore facility

Adverse (imprisonment)
Other maritime-security-relevant offences
2.1 armed attack relating to aircraft, airport, vessel, port or offshore facility
2.2 unlawful interference with maritime transport, offshore facility or aviation
2.3 threat to endanger aircraft, airport, vessel or port
2.4 theft of aircraft or vessel
2.5 piracy
2.6 assassination, murder, attempted murder or manslaughter
2.7 threat to murder
2.8 aggravated assault including the following, whether or not the assault results in injury: grievous bodily harm; actual bodily harm; torture; wounding; aggravated sexual assault; assault with use of weapon; and assault in company
2.9 kidnap
2.10 hostage-taking, deprivation of liberty or false imprisonment
2.11 people smuggling or people trafficking
2.12 racial hatred or racial vilification
2.13 affray or riot
2.14 arson or sabotage
2.15 threat to cause fire or explosion
2.16 unlawful activity relating to weapons, firearms or explosives (not including weapons of mass destruction)
2.17 armed robbery
2.18 destruction of or damage to property belonging to the Commonwealth
2.19 threat to destroy or damage property belonging to the Commonwealth
2.20 hinder or resist government officer concerned with national security
2.21 bribery or corruption
2.22 extortion, blackmail or racketeering
2.23 money laundering
2.24 false testimony, perjury or subverting the course of justice
2.25 forgery or fraud, including identity fraud
2.26 supply false documentation to get a weapons, explosives or vehicle licence
2.27 unlawful activity relating to passports or visas
2.28 impersonate, misrepresent or falsely advertise a profession or professional status
2.29 deceptive business practice
2.30 import, export, supply, manufacture or cultivate illegal drug or controlled substance
2.31 permit premises to be used for taking, selling or distributing illegal drugs or controlled substances
2.32 conspiracy to commit an offence related to a matter mentioned in items 1.1 to 1.4 and 2.1 to 2.31.

These proposed changes are subject to Parliamentary approval.

Key
A criteria which currently appear as aviation-security-relevant offences
M criteria which currently appear as maritime-security-relevant offences
♦ new criteria for both schemes

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