



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

9 August 2021



Aviation - current
Aviation-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

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

Disqualified	<p>Tier 1. Disqualifying Offences (Person convicted of offence)</p> <p>1.1 An offence involving terrorism A M 1.2 An offence involving treason, advocating terrorism or genocide, or urging violence M 1.3 An offence involving espionage or selling national secrets M 1.4 An offence relating to engagement in hostile activities in a foreign country or involvement with foreign armed forces A M 1.5 An offence relating to weapons of mass destruction M 1.6 An offence involving hijacking or destroying an aircraft, vessel or offshore facility that is used in commerce or owned by the government A M 1.7 An offence involving endangerment of an aircraft, airport, vessel, port or offshore facility that is used in commerce or owned by the government A M 1.8 An offence involving an act of piracy at sea M 1.9 An offence relating to involvement with a criminal organisation or gang ♦ 1.10 An offence involving the smuggling or trafficking of people M</p>
Adverse (Conviction)	<p>Tier 2. Offences for which a conviction is adverse</p> <p>2.1 An offence relating to assaulting or threatening a person on an aircraft, vessel or offshore facility, or in an airport or port A M 2.2 An offence relating to theft of an aircraft or vessel that is used in commerce or owned by the government A M 2.3 An offence relating to questioning conducted by a person or body investigating serious crime or corruption ♦ 2.4 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) ♦ 2.5 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) ♦</p>
Adverse (Imprisonment)	<p>Tier 3. Offences for which a sentence of imprisonment is adverse</p> <p>3.1 Murder or manslaughter A M 3.2 An offence relating to false imprisonment, deprivation of liberty or taking a hostage M 3.3 An offence relating to assault (other than offences referred to in tiers 1 and 2), including indecent or sexual assault M 3.4 An offence relating to the sexual abuse or sexual exploitation of a child ♦ 3.5 An offence relating to intimidation (other than offences referred to in tiers 1 and 2) A 3.6 An offence 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 3.7 An offence relating to affray or riot M 3.8 An offence relating to assaulting or resisting a law enforcement officer or other public officer ♦ 3.9 An offence of impersonating a law enforcement officer or other public officer A M 3.10 An offence of racial hatred or racial vilification M 3.11 An offence relating to firearms, ammunition, weapons or the use of an item as a weapon A M 3.12 An offence relating to explosives or explosive devices A M 3.13 Arson or an offence of a kind equivalent to arson M 3.14 An offence relating to production, possession, supply, import or export of an illegal drug or controlled substance A M 3.15 An offence relating to illegal import or export of goods, fauna or flora M 3.16 An offence relating to interference with goods under Customs control M 3.17 An offence relating to extortion or blackmail M 3.18 An offence relating to theft (other than offences referred to in tiers 1 and 2) A M 3.19 An offence relating to forgery or fraud A M 3.20 An offence relating to tax evasion ♦ 3.21 An offence relating to money laundering or currency violations M 3.22 An offence relating to dealing with proceeds of crime ♦ 3.23 An offence relating to bribery or corruption A M 3.24 An offence of perjury or otherwise relating to perversion of the course of justice M 3.25 An offence relating to use of a false identity or false identity documents M 3.26 An offence relating to the unauthorised use, access, modification or destruction of data or electronic communications ♦</p>

Maritime – current
Maritime-security-relevant offences

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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Information for ASIC and MSIC Holders on Self-Reporting and the New Eligibility Criteria

Frequently Asked Questions (FAQs)

1. Why do I need to self-report convictions?

- Securing Australia's airports, seaports and offshore facilities against unlawful interference, terrorism and infiltration from organised crime groups is vital to ensuring a secure, united and prosperous Australia.
- Under regulations 6.41 of the *Aviation Transport Security Regulations 2005* and 6.08LB of the *Maritime Transport and Offshore Facilities Security Regulations 2003*, applicants and cardholders must notify their ASIC/MSIC issuing body or Department of Home Affairs (auscheck@homeaffairs.gov.au) within 7 days if they have been convicted of and sentenced for an aviation or maritime security-relevant offence (ASRO or MSRO).
 - If you are unsure whether your conviction relates to a security-relevant offence, we encourage you to speak with your ASIC/MSIC issuing body or the Department of Home Affairs to avoid penalty.
- Notifying your issuing body or the Department of Home Affairs will provide for greater security outcomes and will ensure that you avoid penalty.
- **If you have never been convicted of an offence, you do not need to self-report.**

2. What about the new eligibility criteria?

- The new eligibility criteria will come into effect from **23 August 2021**. The vast majority of cardholders will be unaffected by the new criteria.
- A small number of existing cardholders, may need to report prior convictions to your ASIC/MSIC issuing body or the Department of Home Affairs (auscheck@homeaffairs.gov.au).
 - If you have previously self-reported an offence identified in Table 1 below, you do not need to self-report again. You will only need to self-report if you have not reported the offence before while holding an ASIC or MSIC.
 - Refer to column "is this a new offence?" in Table 1 to determine whether the offence is new to the ASIC or MSIC schemes. If the offence is considered "new" to your relevant scheme, you will be required to self-report to your ASIC/MSIC issuing body or the Department of Home Affairs.
- From 23 August 2021, all existing cardholders will have **30 days to self-report against the new eligibility criteria** to either your ASIC/MSIC issuing body or the Department of Home Affairs.
- 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.

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3. Table 1: List of offences for the ASIC and MSIC schemes

- Previously, the offence list was different for the ASIC and MSIC schemes. Table 1 below, lists the eligibility criteria that all applicants will be assessed against regardless of whether you are applying for an ASIC or MSIC.
- Some of the offences may be familiar, however, there are several new offence categories added to the list and some that are new for either the ASIC scheme or the MSIC scheme.
- The right column in Table 1 below “Is this a new offence?”, details if these offence categories are new to help you to identify whether you need to self-report.
 - **The items marked as ‘No’** are offences that are already under both schemes and there is no need to self-report, unless you have not done so before.
 - **The items marked with an ‘A’ next to them**, demonstrate offence categories that are new for the ASIC scheme and ASIC holders are required to self-report, unless you have done so before.
 - **The items marked with an ‘M’ next to them**, demonstrate offence categories that are new for the MSIC schemes and MSIC holders are required to self-report, unless you have done so before.
 - **The items marked with both an ‘A’ and ‘M’ next to them**, demonstrate offences categories that are new for the ASIC and MSIC schemes. Therefore, all ASIC/MSIC holders who have a conviction and sentence for any of these new categories are required to self-report.

Table 1: List of offences for the ASIC and MSIC schemes

Tier	Offence	Is this a new offence?
Tier 1	1. An offence involving terrorism	No
	2. An offence involving treason, advocating terrorism or genocide, or urging violence	A
	3. An offence involving espionage or selling national secrets	A
	4. An offence relating to engagement in hostile activities in a foreign country or involvement with foreign armed forces	No
	5. An offence relating to weapons of mass destruction	A
	6. An offence involving hijacking or destroying an aircraft, vessel or offshore facility that is used in commerce or owned by the government	No
	7. An offence involving endangerment of an aircraft, airport, vessel, port or offshore facility that is used in commerce or owned by the government	No
	8. An offence involving an act of piracy at sea	A
	9. An offence relating to involvement with a criminal organisation or gang	A/M
	10. An offence involving the smuggling or trafficking of people	A
Tier 2	1. An offence relating to assaulting or threatening a person on an aircraft, vessel or offshore facility, or in an airport or port	No
	2. An offence relating to theft of an aircraft or vessel that is used in commerce or owned by the government	No

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	3. An offence relating to questioning conducted by a person or body investigating serious crime or corruption	A/M
	4. 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)	A/M
	5. 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)	A/M
Tier 3	1. Murder or manslaughter	No
	2. An offence relating to false imprisonment, deprivation of liberty or taking a hostage	A
	3. An offence relating to assault (other than offences referred to in tiers 1 and 2), including indecent or sexual assault	A
	4. An offence relating to the sexual abuse or sexual exploitation of a child	A/M
	5. An offence relating to intimidation (other than offences referred to in tiers 1 and 2)	M
	6. An offence relating to endangerment of others (other than offences referred to in tiers 1 and 2), but not including traffic offences except where a vehicle is used as a weapon	M
	7. An offence relating to affray or riot	A
	8. An offence relating to assaulting or resisting a law enforcement officer or other public officer	A/M
	9. An offence of impersonating a law enforcement officer or other public officer	No
	10. An offence of racial hatred or racial vilification	A
	11. An offence relating to firearms, ammunition, weapons or the use of an item as a weapon	No
	12. An offence relating to explosives or explosive devices	No
	13. Arson or an offence of a kind equivalent to arson	A
	14. An offence relating to production, possession, supply, import or export of an illegal drug or controlled substance	No
	15. An offence relating to illegal import or export of goods, fauna or flora	A
	16. An offence relating to interference with goods under customs control	A
	17. An offence relating to extortion or blackmail	A
	18. An offence relating to theft (other than offences referred to in tiers 1 and 2)	No
	19. An offence relating to forgery or fraud	No
	20. An offence relating to tax evasion	A/M
	21. An offence relating to money laundering or currency violations	A
	22. An offence relating to dealing with proceeds of crime	A/M
	23. An offence relating to bribery or corruption	No
	24. An offence of perjury or otherwise relating to perversion of the course of justice	A
	25. An offence relating to use of a false identity or false identity documents	A
	26. An offence relating to the unauthorised use, access, modification or destruction of data or electronic communications	A/M

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4. What happens after I self-report?

- Once a self-report form is received, the Department of Home Affairs will conduct a new background check and your card will remain valid until the background check is finalised.
- If notice is received that you have an adverse criminal record, your card will be cancelled by the issuing body, regardless of the card's expiry validity.
- Depending on your conviction, you can apply for a discretionary card, or appeal to the AAT. Please see Table 2 (below) regarding your appeal rights.

5. Is every cardholder required to submit a self-report form?

- No. The requirement to self-report within 30 days is limited to individuals who have been convicted of and sentenced for an offence captured under the new eligibility criteria.
 - If you have previously self-reported an offence identified in Table 1, you do not need to self-report again. You will only need to self-report if you have not reported the offence previously while holding an ASIC or MSIC.
 - Refer to column "is this a new offence?" in Table 1 to determine whether the offence is new to the ASIC or MSIC schemes. If the offence is considered "new" to your relevant scheme, you will be required to self-report to your ASIC/MSIC issuing body or the Department of Home Affairs.
- **If you have never been convicted of an offence, you do not need to self-report.**
- Refer to the attached flowchart for more information.

6. What do the tiers mean in the table of offences?

- The new criteria is the same for ASIC and MSIC holders.
- The table below outlines what each tier represents.

Table 2: 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.

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ASIC and MSIC Holder Self-Reporting Requirements

