



AusCheck Privacy Notice - ASIC & MSIC

June 2022

The *AusCheck Act 2007* (AusCheck Act) authorises and requires the Department of Home Affairs (the Department) to collect certain personal information to administer the AusCheck scheme.

The *Privacy Act 1988* (Privacy Act) requires the Department to notify an individual of certain matters when it collects personal information about them. This document is your notification of those matters.

This document explains:

- what personal information is collected when an application for a background check is made in connection with you applying to be issued or holding an Aviation Security Identification Card (ASIC) or Maritime Security Identification Card (MSIC)
- how your personal information will be used and disclosed, and
- where you can find more information.

What is personal information?

The Privacy Act defines personal information as information or an opinion about an identified individual, or an individual who is reasonably identifiable.

Under the Privacy Act personal information may include sensitive information. Sensitive information is a subset of personal information and includes information or opinion about an individual's racial or ethnic origin, political, religious and philosophical beliefs, trade or professional associations or memberships, union memberships, sexual orientation or practices, criminal record, health, genetic and biometric information.

Biometric data is known as 'identity verification information' in the AusCheck Act and includes data such as your fingerprint (but not your photograph). Identity verification information is given additional protection under the AusCheck Act, and may only be collected, retained, used or disclosed for the purposes of verifying your identity for the purposes of the background check.

Why is my personal information being collected?

Under the *Aviation Transport Security Regulations 2005* and the *Maritime Transport and Offshore Facilities Security Regulations 2003*, a person must undergo an AusCheck coordinated background check before they can be issued with an ASIC or MSIC. AusCheck requires some of your personal information in order to conduct this background check. Your issuing body will apply to AusCheck for a background check on your behalf.

Applicants and cardholders are required to notify their issuing body of any changes to their name and, in the case of a four-year MSIC, any changes to their address. You are able to update your details with AusCheck at any time by either contacting your issuing body or AusCheck.

Consent

Under the AusCheck Act and AusCheck Regulations 2017, by accepting this Privacy Notice and making an application for an ASIC or MSIC, you are taken to have consented to an AusCheck coordinated background check and to your identity being verified.

This consent applies to the initial background check required as part of your ASIC or MSIC application, as well as any further background checks required or permitted by the AusCheck Act or other legislation. This includes:

- a second background check triggered on the two year anniversary of the completion of the initial check undertaken for a four year MSIC
- a further background check in circumstances where it is reasonably suspected that the information provided for the original background check was incomplete, the application requirements were not met, or the advice given as a result of that check was inaccurate or incomplete
- a background check requested by the Secretary of the Department, and
- a further background check in circumstances where you are a holder of an ASIC or MSIC and you are convicted of an aviation or maritime security relevant offence you have a legal obligation to self-report this conviction. In order to continue holding an ASIC or MSIC an additional AusCheck coordinated background check will need to be undertaken.

You will be prompted to provide consent to have your identity documents electronically verified with the document issuer or official record holder through third party systems. Failure to provide this consent, or withdrawing this consent, means an identity check cannot be undertaken.

If an identity check is not undertaken, AusCheck is not required to continue undertaking a background check.

What personal information is being collected about me?

Your issuing body will collect the information that AusCheck requires to conduct a background check and to perform card verification.

The required information includes:

- **Identity information:** your full name, all former full names, all other names, titles, pseudonyms and aliases which you are or were known by, use or have used to identify yourself (variants, including variants in spelling are taken to be different name, titles, pseudonyms or aliases), date and place of birth, gender, contact details, current residential address, and all other previous residential addresses for the past 10 years.
- **Details of identification documents:** for example your birth certificate registration number or passport details, to enable the electronic verification of these documents. If there are issues verifying these documents, your issuing body may provide copies of these documents to AusCheck to assist with troubleshooting. These copies will be stored in accordance with Commonwealth government record keeping obligations as set out in the *Archives Act 1983*.
- **A photograph:** taken at the same time as, or within 6 months prior to, your application showing your full face, and head and shoulders.
- **Work, volunteer and study information:** the name, telephone number and business address of your employer and/or the name and business address of the institution where you are studying.
- **other information:** AusCheck may also need additional information in order to confirm your identity.

If a 'right to work in Australia' or 'immigration check' is requested by your issuing body, AusCheck will also need the following information:

- **immigration information:** your passport number, and the number and expiry date of any visa granted to you enabling you to travel to and enter, remain and/or work in Australia.

If your issuing body, employer or institution has asked you for any additional personal information, you should contact them to clarify why that additional information is required.

AusCheck may direct your issuing body to provide further information if doing so is necessary for the purposes of meeting background check application requirements, ensuring all required information is provided for completing a background check. This direction may be given whilst the background check is being undertaken, or while your ASIC or MSIC is valid. AusCheck may charge for the cost of undertaking a new background check in these circumstances.

What happens if my personal information is not collected?

AusCheck can only conduct a background check if the required information is provided. Failure to provide the required information will delay the commencement of your background check.

If AusCheck does not collect your personal information, a background check cannot be conducted, and you would be unable to be issued an ASIC or MSIC.

How will my personal information be used, disclosed and stored?

Your personal information will be used, disclosed and stored securely in accordance with the Australian Privacy Principles in the Privacy Act.

AusCheck will store your personal information in the AusCheck database, and only use and disclose your personal information for purposes permitted by law, including:

- determining whether a background check is required or permitted
- conducting and advising on the outcome of a background check
- updating information on an individual who has undertaken a background check
- providing updated advice on the outcome of a background check if the initial advice was inaccurate or incomplete (this may involve further background checking)
- verifying the identity of an individual
- providing an online verification services that will verify if an ASIC or MSIC has been issued and its status
- responding to a national security incident, and
- performing functions relating to law enforcement or national security.

Your personal information will be stored in the AusCheck database for these permitted purposes.

Your personal information may be disclosed to an overseas recipient but only in specific instances where this disclosure is permitted by the Privacy Act.

AusCheck will conduct and coordinate a background check using the information you provide to your issuing body. That information may also be used to conduct subsequent background checks (see 'Consent' above). The outcome of these background checks affects your eligibility to be issued and to hold an ASIC or MSIC.

When conducting a background check, AusCheck will disclose your personal information to:

- **The Department:** AusCheck will disclose your personal information to other parts of the Department to electronically verify your identification, or to check your citizenship status or your legal right to work in Australia. This information may also be used for immigration compliance purposes.
- **Australian Security Intelligence Organisation (ASIO):** ASIO will assess your background and any past activities to determine whether there could be a threat to national security. ASIO will keep your information and use it for national security purposes, including those purposes set out in the Australian Security Intelligence Organisation Act 1979.
- **Australian Criminal Intelligence Commission (ACIC) criminal record check and criminal intelligence assessment:** The ACIC will check your criminal record in the databases of all Australian legal jurisdictions and supply a copy of your criminal record to AusCheck. AusCheck will provide you with

an opportunity to review your security-relevant offences before finalising the eligibility assessment. If you dispute the details of these offences, you are required to contact AusCheck in the first instance. AusCheck can provide details of your dispute to the ACIC, but you may need to contact the relevant police in the jurisdiction in which these offences occurred to directly query your criminal record. The ACIC will also assess your background and any past activities to determine whether you may commit, or assist another to commit a serious and organised crime. The ACIC may also securely store and use your information to perform functions related to law enforcement purposes, including those purposes set out in the *Australian Crime Commission Act 2002*.

AusCheck will only provide your personal information for other purposes where specifically required or permitted by law such as verifying ASIC or MSIC details, responding to a national security incident, and for law enforcement or national security purposes

If you are under 18 years of age, AusCheck will only conduct the criminal intelligence and security assessment components of the background check. AusCheck will only use or disclose your personal information for other purposes where specifically required or permitted by law.

If you are under 14 years of age, your parent or legal guardian will be required to provide written consent to your issuing body for the background check to be undertaken.

What happens after my background is checked?

AusCheck will use the results of these checks to advise your issuing body if you are eligible to be issued an ASIC or MSIC; or if the issuing body must not issue an ASIC or MSIC to you because you have:

- an 'adverse' criminal record as collected by the ACIC
- an 'adverse' criminal intelligence assessment as assessed by the ACIC
- an 'adverse' security assessment as assessed by ASIO
- do not have the right to work (MSIC) or right to be in Australia (ASIC).

If you have applied for an ASIC or an MSIC and have an adverse criminal record with Tier 2 and/or Tier 3 offences only, the Secretary of the Department has discretion on whether your issuing body can issue you an ASIC or MSIC.

You cannot apply for discretion if you have any of the following:

- an adverse criminal record (Tier 1 offences)
- an adverse criminal intelligence assessment
- an adverse security assessment.

If you have applied for an ASIC or an MSIC and you have a qualified security assessment your issuing body must not issue you an ASIC or MSIC unless the Secretary of the Department has given written approval to issue you an ASIC or MSIC.

AusCheck will keep your personal information on the AusCheck database. Issuing bodies, as well as Commonwealth, state and territory authorities seeking access for the purposes of performing functions relating to law enforcement or national security can access this information in certain circumstances authorised by law.

Four-year MSIC – Two-year follow up check

If you apply for and are found eligible to be issued with a four year MSIC, AusCheck is required to undertake a second background check, triggered on the two year anniversary of your initial background check. The fee paid for your four year MSIC includes the cost of this second background check. The second background check is similar in nature and process to your initial check.

If you apply for and are found eligible to be issued with a four year MSIC, but subsequently decide you do not want to have the second background check, you can withdraw your consent for that second check by contacting your issuing body before the second background check occurs.

If you withdraw your consent for the second check:

- your issuing body must immediately cancel your MSIC
- your issuing body will receive a credit for AusCheck's fees associated with the second check.

If you do not want to have a second background check you have the option of applying for a two year MSIC.

Spent convictions

A spent conviction is a criminal conviction that lapses after a period of time and will not ordinarily be disclosed on a person's criminal record. The Commonwealth spent convictions scheme is contained in Part VIIC of the *Crimes Act 1914* (Cth) and limits the use and disclosure of certain criminal record information.

AusCheck will not be provided with, and will not use or disclose, information about a conviction which is 'spent' (unless an exclusion applies – see below) or quashed or set aside, or for which a pardon has been granted.

A conviction is a 'spent conviction' under the Commonwealth spent convictions scheme if all of the following applies:

- you were not sentenced to more than 30 months imprisonment in relation to the offence
- the 'waiting period' has ended – 10 years since the date of the conviction (or five years if you were dealt with as a minor), and
- you have not been convicted for an offence during the waiting period.

A conviction is also 'spent' under the Commonwealth scheme if it is considered a 'spent conviction' under a state or territory law. Note that AusCheck is exempt from the application of the South Australian spent convictions scheme.

Some exclusions apply to persons applying for an ASIC or MSIC. This means that the details of convictions for certain aviation and maritime security-relevant offences will be given to AusCheck and used and disclosed in relation to the background check even if they are 'spent'.

If you believe the 'spent convictions' rules have been breached by AusCheck, you can apply to the Office of the Australian Information Commissioner for an investigation.

Where can I get more information?

The Department's privacy policy is available from the Department's website:

<https://www.homeaffairs.gov.au/access-and-accountability/our-commitments/plans-and-charters/privacy-policy>

You can find the following information in our Privacy Policy:

- how to access or seek correction of personal information about you that is held by the Department, and
- how you may complain about a breach of the Australian Privacy Principles and how complaints are dealt with.

The AusCheck section of the Home Affairs website has more information about:

- 'spent convictions'
- how your personal information will be used and secured
- to whom your personal information may be disclosed
- your rights to access and correct your personal information

- your rights to complain about any suspected breach of your privacy
- how your personal information is secured by AusCheck
- the background checking process
- the decision making process and considerations
- processing times and outcomes notification
- discretionary cards
- appeal processes
- obligations to self-report, and
- legislation relating to AusCheck

You can see the website at:

<https://www.auscheck.gov.au/security-card/aviation>

How to contact us

You can contact an AusCheck staff member on 1300 097 974 or through AusCheck@homeaffairs.gov.au.