



Frequently Asked Questions Criminal Intelligence Assessments

1. What changes are happening?

- The *Transport Security Legislation Amendment (Serious Crime) Regulations 2022* (the Regulations) were registered on 4 April 2022 and make the following changes to the aviation and maritime security identification card (ASIC and MSIC) schemes:
 - ASIC holders and applicants now have the ability to seek reconsideration of certain decisions made by the Secretary of the Department of Home Affairs (the Secretary) and;
 - the Australian Criminal Intelligence Commission (ACIC) will conduct criminal intelligence assessments as part of the ASIC and MSIC background check.

2. When will the changes come into effect?

- The reconsideration mechanism for the ASIC scheme commenced on 5 April 2022.
- The ACIC will begin conducting criminal intelligence assessments of ASIC and MSIC applicants for applications made from 22 June 2022.

3. What are criminal intelligence assessments?

- A criminal intelligence assessment is an assessment conducted by the ACIC to determine if intelligence held by the agency suggests the applicant may commit a serious and organised crime or assist another person to commit a serious and organised crime.
- If the ACIC issues an adverse criminal intelligence assessment, an individual will be ineligible to be issued or hold an ASIC or MSIC.
 - The ACIC will ensure that the process is conducted fairly and with surety, whilst also protecting Australia's aviation and maritime secure areas from serious criminals.
 - If you receive an adverse criminal intelligence assessment, you cannot apply to the Secretary for a discretionary review. You are only able to apply for merits review to the Security Division of the Administrative Appeals Tribunal (AAT).



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4. What is the reconsideration mechanism for the ASIC scheme and why is the Government introducing the mechanism?

- If your application for an ASIC or MSIC is refused by AusCheck on the basis of an adverse criminal record, you may be eligible to apply to the Secretary for a discretionary review.
- Under the MSIC scheme, if the discretionary MSIC is refused the individual can apply to the Secretary to seek a reconsideration of a decision prior to appealing to the AAT.
- Previously under the ASIC scheme, if the discretionary ASIC was refused the individual did not have the ability to seek reconsideration of the decision, instead, could only appeal the decision to the AAT.
- Under the new measures, ASIC holders will have the ability to apply to the Secretary for reconsideration of a decision of the Secretary for certain matters prior to appealing the decision to the AAT.
- The measure is largely consistent with the MSIC scheme and delivers on efforts to harmonise the ASIC and MSIC schemes where possible.

5. How will the changes impact me?

- The introduction of criminal intelligence assessments is anticipated to impact a very small cohort of ASIC and MSIC applicants.
 - Individuals who have known links to serious and organised crime groups are likely to be impacted by the introduction of criminal intelligence assessments.
 - If you receive an adverse criminal intelligence assessment, you cannot apply for a discretionary card by the Department. You are only able to apply for merits review to the Security Division of the AAT.

6. How will the ACIC determine who will receive an adverse criminal intelligence assessment?

- In determining if an individual will be issued an adverse criminal intelligence assessment, the ACIC will undertake a careful evaluation to determine if intelligence or information suggests a person may commit or assist another person to commit a serious and organised crime. Further information on



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the threshold the ACIC will use is found within the *Australian Crime Commission Act 2002* (ACC Act).

- Being the subject of a rumour will not be sufficient to meet the threshold for the ACIC to issue an adverse assessment, nor will simply being a relative of a person who is involved in serious and organised crime.

7. What is the threshold for someone being given an adverse criminal intelligence assessment? Can you be given an adverse assessment simply because of who you are related to, or rumours?

- In determining if an individual will be issued an adverse criminal intelligence assessment, the ACIC will undertake a careful evaluation to determine if intelligence or information suggests a person may commit or assist another person to commit a serious and organised crime.
- Being the subject of a rumour will not be sufficient to meet the threshold for the ACIC to issue an adverse assessment, nor will simply being a relative of a person who is involved in serious and organised crime.
- The Chief Executive Officer (CEO) of the ACIC will review all the relevant facts available in determining if a person meets the threshold to receive an adverse criminal intelligence assessment.

8. What is the difference between a criminal history check and a criminal intelligence assessment?

- Both the criminal history check and the criminal intelligence assessments are conducted by the ACIC.
- The criminal history check reviews past convictions against the ASIC/MSIC eligibility criteria found within the *Aviation Transport Security Regulations 2005* and the *Maritime Transport and Offshore Facility Security Regulations 2003*.
- The criminal intelligence assessment reviews the applicant to identify any links to, or involvement with serious and organised crime.
- Please note that an applicant can be found ineligible to hold an ASIC or MSIC if they receive an adverse criminal history check OR an adverse criminal intelligence assessment.



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	Criminal History Assessment	Criminal Intelligence Assessment
Based on	Criminal convictions only	Intelligence holdings
Discretionary review	For Tier 2 and Tier 3 offences only	No
Reconsideration	For Tier 2 and Tier 3 offences only	No
Appeal to the AAT	Yes, application may be made to the AAT for any offence.	Yes, application may be made to the Security Division of the AAT.

9. How do I appeal a decision if found to have an adverse criminal intelligence assessment?

- Individuals who receive an adverse criminal intelligence assessment may only apply for merits review to the Security Division of the AAT. You are unable to apply to the Department for a discretionary review.