

# FORTHCOMING CHANGES TO THE MARITIME SECURITY IDENTIFICATION CARD (MSIC) SCHEME

On 29<sup>th</sup> January 2010, the Government announced important changes required to be made to the current MSIC scheme. These changes are designed to enhance the regime by strengthening Australia's maritime, offshore and oil and gas industries security and will:

- tighten the eligibility criteria for the issue of an MSIC by increasing the number of criminal offences that will preclude an individual from obtaining an MSIC;
- reduce the validity period of an MSIC from five years to four, with an additional background check to be conducted after two years (meaning MSIC holders will now be background checked every two years instead of the current five); and
- introduce new offences for MSIC holders who fail to advise their MSIC Issuing Body of additions to their criminal record and any sentences of imprisonment imposed as a result. (MSIC Issuing Bodies will also be required to take appropriate action on receipt of this new maritime security relevant offence information.)

## Implementation Timeline

Since 1 July 2010, MSIC applications and renewals have been checked against a new expanded set of criminal offence eligibility criteria (refer to the list under *Frequently Asked Questions*).

Commencing 1<sup>st</sup> December 2010, the card validity, suspension provisions, further additional background checking requirements, new penalties for MSIC holders failing to report an maritime security relevant offence and Issuing Bodies who fail to cancel or suspend a MSIC, will take effect.

## Reduced Card Validity

From 1<sup>st</sup> December 2010, MSICs with five year duration will no longer be available; instead, applicants will be able to obtain either a four year MSIC (with an initial background check and another after 2 years), or a two year MSIC (with a single background check at the beginning). The applicant will be able to choose the card model with a validity most suited to their work requirements.

## New Mandatory Reporting Requirements

After 1<sup>st</sup> December 2010, all MSIC holders will be required to notify AusCheck or their Issuing Body (in writing, detailing the sentence imposed), if they have been convicted of a maritime security relevant offence. The Issuing Body will be obligated to cancel an MSIC if the holder has been convicted and sentenced to imprisonment for a maritime security relevant offence.

An MSIC holder who fails to notify their Issuing Body or AusCheck, in writing, of a conviction for a maritime security relevant offence will be committing a strict liability offence and be subject to a fine.

Current MSIC holders will not be required to resubmit applications or take any action; they will be screened against the tightened criteria when they are next required to renew their cards.

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## **- FREQUENTLY ASKED QUESTIONS -**

### **What are the new MSIC legal obligations and what do they mean to me?**

From 1 December 2010, you will be required to report to your MSIC Issuing Body or AusCheck any additional maritime relevant criminal offences that you receive. You are required to report the offences even if you did not receive a prison sentence. This means that if a court convicts you of any new criminal offences (as listed on the maritime relevant offence list) while you hold an MSIC, then you must declare this within 7 days to either AusCheck or your MSIC Issuing Body.

### **What are the new criminal offences added to the Maritime Offence list?**

The additional offence categories include:

- piracy;
- assassination, murder, attempted murder and manslaughter;
- a range of aggravated assault offences, whether or not the assault results in injury;
- kidnapping and hostage taking offences;
- incitement to racial hatred and incitement to vilification;
- affray or riot;
- arson offences;
- weapons, firearms and explosive offences not already covered in the Regulations;
- bribery, corruption and graft offences;
- extortion, racketeering and blackmail offences;

- false testimony, perjury or subverting the course of justice;
- a range of forgery and fraud offences not already covered in the Regulations;
- identity fraud offences including passport and visa offences;
- a number of drug trafficking offences not already covered in the Regulations;
- a range of conspiracy offences; and
- hoax/threat offences not already covered under the Regulations.

A full list of the eligibility criteria offence category can be found at:

<http://www.infrastructure.gov.au/transport/security/maritime/msic.aspx> If your offence is on the list, or if you are unsure, then contact AusCheck or your Issuing Body.

### **What does the MSIC validity reduction mean to me (or my company)?**

From now on, the criminal history background checks performed as part of your MSIC application will take into account the new set of criminal offences, and from 1<sup>st</sup> December 2010 you will be background checked every 2 years instead of once in every 5 years as you presently are.

If you think you will be working in the maritime industry for more than 2 years, it might be more appropriate for you to apply for a 4 year card. If you think you will only require an MSIC for 2 years or less, you could apply for a 2 year card. Please note that if you opt to purchase a 4 year card you will undergo a second background check at the two year marker.

### **What if my current MSIC hasn't expired yet?**

Your existing card will remain valid and you will not have to reapply for another MSIC until your current card expires.

### **What will be the price of a 4 year or 2 year MSIC?**

There will be some additional costs imposed by Government in terms of more frequent background checking, however overall pricing for the issue of an MSIC is at the discretion of individual Issuing Bodies according to their own pricing structure and business requirements. When Fremantle Ports has determined its card pricing structure, with the additional background check fee incorporated, industry will be advised.

### **After I get a 4 year or 2 year MSIC, what do I need to do then?**

You always need to advise your MSIC Issuing Body of any changes to your current address, telephone/mobile number and email address. This will assist with the background checking process.

### **Who is AusCheck and what is an MSIC Issuing Body?**

AusCheck is the government agency that arranges the background check for MSIC applicants. An MSIC Issuing Body is the company who processed your MSIC application and provided you with your MSIC. Fremantle Ports is an MSIC Issuing Body.

### **What if my Renewal MSIC is not-approved, resulting from the expanded set of criminal offences?**

Applicants found ineligible as part of this process can appeal to the Secretary of the Department of Infrastructure, Transport, Regional Development and Local Government for consideration of their individual circumstances. An additional criterion has been introduced to reinforce that the Secretary must consider if a person has been convicted of a maritime security relevant offence/s before or after becoming the holder of an MSIC. For more information, email: [ID.Security@infrastructure.gov.au](mailto:ID.Security@infrastructure.gov.au) or call 02 6274 7748.

In recognition that some applicants would have been MSIC holders prior to being found ineligible under the new offence criteria, the Secretary will have the ability to consider a person's MSIC history on appeal.

### **How do I declare an (Maritime Security Relevant Offence) MSRO?**

Advise AusCheck on 02 6141 2000 or tell your MSIC Issuing Body within 7 days of being found guilty of the maritime relevant offence by the courts.

### **What are the new penalties?**

If you don't declare to AusCheck or your MSIC Issuing Body that you have a new criminal offence, then you may have to pay a fine (a maximum penalty of \$2,200 has been introduced for MSIC holders who fail to comply with these new obligations) and your MSIC will be cancelled. This could also affect you getting another MSIC in the future.

The maximum fine that may be imposed on MSIC Issuing Bodies that fail to comply with the new obligations is \$5,500 (this penalty can be multiplied by five for corporations, as per the Corporations Act for a total maximum penalty of \$27,500). Issuing Bodies will not be held accountable under the new obligations if information regarding a conviction or term of imprisonment has not been communicated to them.

### **Who can I call if I need to discuss any of the above matters?**

Please contact Fremantle Ports MSIC Service Centre on 08 9430 3322, 08 9430 3580 or 08 9430 3384.