



Australian Government

Department of Transport and Regional Services

Committee Secretary
Senate Legal and Constitutional Affairs Committee
Department of the Senate
Parliament House
Email: legcon.sen@aph.gov.au

cc. Ms Julie Dennett and Ms Ann Palmer
Principal Research Officers
Senate Legal and Constitutional Affairs Committee

cc. Ms Cheryl Johnson
General Manager
Office of Transport Security

cc. Mr Graham Hanna and Mr John Kilner
Section Heads
Office of Transport Security

7 March 2007

Dear Sir/Madam

Responses to Questions On Notice for the Senate Inquiry into Auscheck Bill 2006

Thank you for the Questions on Notice, from the Senate Legal and Constitutional Affairs Committee, for the Senate Inquiry into the Auscheck Bill 2006. The Committee Secretariat sent these Questions to Mr Graham Hanna, Section Head of Aviation Security, in the Office of Transport Security, on 2 March 2007. The Secretariat requested a response by today.

Accordingly, I am responding on Mr Hanna's behalf, for the Department of Transport and Regional Services. Please find the Responses to the Questions on Notice attached.

Please do not hesitate to telephone or email me, if you require any further action on these Questions.

Many thanks for your time and assistance.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Sam Salvaneschi'.

Sam (Samantha) Salvaneschi
Aviation Security Identity Section
Office of Transport Security
Telephone: 02 6274 6744
Email: sam.salvaneschi@dotars.gov.au

Senate Legal and Constitutional Affairs Committee

ANSWERS TO QUESTIONS ON NOTICE

Inquiry into Auscheck Bill 2006

March 2007

Department of Transport and Regional Services

Question: 21

Division/Agency: Office of Transport Security

Topic: Cost Recovery

Hansard Page: Written Question

Senator Ludwig asked:

What is the Department's response to arguments that **cost recovery from industry is not appropriate** in relation to AusCheck background checks (nor in relation to anti-terrorism security measures generally)? (See, for example, Regional Aviation Association of Australia, *Submission 1*, p. 2; Shipping Australia Limited, *Submission 11*, p. 2)

Answer:

The proposed Auscheck Act will provide for regulations that enable Auscheck to charge a fee per Aviation Security Identification Card (ASIC) and Maritime Security Identification Card (MSIC) application received from an issuing body. Aviation and maritime industry participants have been paying \$95 to \$150 for ASICs and \$140 to \$200 for MSICs.

These fees include the Australian Security Intelligence Organisation (ASIO) and Australian Federal Police (AFP) checks. The Authority To Work In Australia check is borne by the Department of Immigration And Citizenship. Further, since 6 March 2006, the Department of Transport and Regional Services has been providing a background checking service for industry at no cost. The aviation industry issuing bodies have not reduced their fees for ASICs, since that occurred.

It is expected that the centralised Auscheck service will be faster, more accessible and more consistent.

The Australian Government *Cost Recovery Policy* and *Cost Recovery Policy Guidelines* apply to the Attorney General's Department. The *Cost Recovery Policy Guidelines* require that cost recovery arrangements be assessed against cost recovery principles prescribed by the Guidelines. The Auscheck cost recovery proposal squarely complies with the details of each and every one of these principles.

The Attorney General's Department has comprehensively demonstrated this in the Cost Recovery Impact Statement that prepared, as per the Cost Recovery Policy and Cost Recovery Guidelines. The Department of Finance and Administration has checked this Cost Recovery Impact Statement.

Auscheck advises that it is providing a detailed response to this Question.

Senate Legal and Constitutional Affairs Committee

ANSWERS TO QUESTIONS ON NOTICE

Inquiry into Auscheck Bill 2006

March 2007

Department of Transport and Regional Services

Question: 24

Division/Agency: Office of Transport Security
Topic: Management of Missing Aviation Security Identification Cards
Hansard Page: Written Question

Senator Ludwig asked:

In the Second Reading debate, the Attorney-General stated that the Federal Government is working with industry to implement **best practice measures to manage lost, stolen or expired ASIC cards**. Can you provide the committee with details of what these measures will entail?

Answer:

Many industry members have in place established practices to manage lost or stolen cards.

For example, some issuing bodies that are airports:

- confirm the identity of the Aviation Security Identification Card (ASIC) holder with the photograph on the ASIC at manned access points;
- disable any electronic access rights that the airport may have included on the ASIC as soon as an ASIC is reported lost or stolen, or expires;
- report stolen ASICs to the police; and
- routinely audit irregular card use, such as use at points that were not authorised for that holder.

Further, it is essential to note that ASICs do not confer access rights to secure areas of an airport. Rather, they indicate only that the airport operator may authorise the ASIC holder to be in a certain secure area or areas, because the person's ASIC holding status is evidence that they have been rigorously background-checked to the standard required for ASIC eligibility, and found eligible.

An ASIC also always incorporates a photograph of its holder and protection against tampering. This protection is afforded by a Kinegram Hot Stamped Patch Optically Variable Device (the OVD Kinegram). The OVD Kinegram is a highly complex product, which, apart from its overt appearance and security effects, has several covert security features.

It was introduced in 1986 and has not been successfully counterfeited since. It is world best standard. Accordingly, it is only available to Government and approved government organisation, and it is only used to protect Government authorised identification cards and over thirty national currencies. The OVD Kinegram has been endorsed for use by Australian Government agencies for the protection and authentication of PVC-based identification cards and paper-based documents.

Senate Legal and Constitutional Affairs Committee

ANSWERS TO QUESTIONS ON NOTICE

Inquiry into Auscheck Bill 2006

March 2007

Department of Transport and Regional Services

Question: 25

Division/Agency: Office of Transport Security

Topic: Eligibility Test for Aviation Security Identification Card

Hansard Page: Written Question

Senator Ludwig asked:

What measures are being undertaken/considered by the Federal Government to provide **more stringent testing for obtaining and continuing to hold ASICs** given the 'many vulnerabilities' identified in the current system by the Wheeler Report (see pp 44-47)?

Answer:

The Commonwealth Parliament amended the Regulations to toughen the eligibility test to hold an Aviation Security Identification Card (ASIC). These amendments came into force on 6 March 2006.

The amendments strengthened the ASIC eligibility criteria in three ways. First, by removing the grandfathering provisions that allowed certain criminal offences not to be taken into account in the assessment of ASIC applications; second, by adding a pattern of criminality test for ASIC applicants; and, third, by providing for more frequent background checking, if an applicant has a history of criminal activities.

Effectively, this means that an ASIC holder is ineligible for an ASIC, if they have an 'adverse criminal record' that is they have been sentenced to imprisonment for an aviation security relevant offence (ASRO) or have two ASRO convictions (no imprisonment), one occurring within 12 months of the criminal history check. Following the introduction of the strengthened criteria for new applicants, the Department of Transport and Regional Services reviewed ASIC holders that obtained their ASIC prior to 6 March 2006 to ensure they remain eligible for an ASIC.

The review assessed over 52 000 ASIC holders. In addition to this review, the Department assessed some 76 000 new and renewed ASIC applications from March 2006 to January 2007. This ensured that all existing ASIC holders have been assessed against the strengthened criteria.

ASIC holders that have been determined to have an adverse criminal record will have their ASICs cancelled.

ASIC holders that have been determined to have a qualified criminal record and whose ASIC is valid for more than 12 months will have their current ASICs cancelled. They may be reissued with another ASIC with an expiry date for a maximum of 12 months.

Senate Legal and Constitutional Affairs Committee

ANSWERS TO QUESTIONS ON NOTICE

Inquiry into Auscheck Bill 2006

March 2007

Department of Transport and Regional Services

Question: 29

Division/Agency: Office of Transport Security
Topic: Auscheck and the Issue of Aviation Security Identification Cards and Maritime Security Identification Cards
Hansard Page: Written Question

Senator Ludwig asked:

The Joint Committee of Public Accounts and Audit in its Report 409, Developments in Aviation Security since the Committee's June 2004 'Report 400: Review of Aviation Security in Australia' (tabled in December 2006), recommended that, as well as being responsible for background checks for applicants of Aviation Security Identification Cards (ASICs) and Maritime Security Identification Cards (MSICs), **AusCheck should also be responsible for the issue of these cards** (Recommendation 4). What is the Federal Government's response to this recommendation?

Answer:

The Joint Committee of Public Accounts and Audit's final report was tabled on 4 December 2006. The report makes 19 recommendations in relation to aviation security measures. The Government will consider these recommendations having regard to the potential impact their introduction will have on the aviation industry, and their capacity to strengthen aviation security. The Department of Transport and Regional Services is preparing the Government's responses to this report.

Senate Legal and Constitutional Affairs Committee

ANSWERS TO QUESTIONS ON NOTICE

Inquiry into Auscheck Bill 2006

March 2007

Department of Transport and Regional Services

Question: 30

Division/Agency: Office of Transport Security
Topic: Auscheck and Risk Levels At Airports
Hansard Page: Written Question

Senator Ludwig asked:

The Joint Committee of Public Accounts and Audit's report recommended that, in determining whether to issue an applicant with an Aviation Security Identification Card (ASIC), **AusCheck should take into account the specific level of risk that exists at the airport for which the application has been made** (Recommendation 5). What is the Federal Government's response to this recommendation?

Answer:

The Joint Committee of Public Accounts and Audit's final report was tabled on 4 December 2006. The report makes 19 recommendations in relation to aviation security measures. The Government will consider these recommendations having regard to the potential impact their introduction will have on the aviation industry, and their capacity to strengthen aviation security. The Department of Transport and Regional Services is preparing the Government's responses to this report.

Senate Legal and Constitutional Affairs Committee

ANSWERS TO QUESTIONS ON NOTICE

Inquiry into Auscheck Bill 2006

March 2007

Department of Transport and Regional Services

Question: 31

Division/Agency: Office of Transport Security

Topic: Return of Aviation Security Identification Cards

Hansard Page: Written Question

Senator Ludwig asked:

The Joint Committee of Public Accounts and Audit's report recommended that **AusCheck should establish detailed and formal mechanisms for monitoring the return of ASICs** on the expiry or termination of a cardholder's work in aviation-related industries and provide an annual report to the Parliament on the number of non-returned identity cards (Recommendation 6). What is the Federal Government's response to this recommendation?

Answer:

The Joint Committee of Public Accounts and Audit's final report was tabled on 4 December 2006. The report makes 19 recommendations in relation to aviation security measures. The Government will consider these recommendations having regard to the potential impact their introduction will have on the aviation industry, and their capacity to strengthen aviation security. The Department of Transport and Regional Services is preparing the Government's responses to this report.

Senate Legal and Constitutional Affairs Committee

ANSWERS TO QUESTIONS ON NOTICE

Inquiry into Auscheck Bill 2006

March 2007

Department of Transport and Regional Services

Question: 32

Division/Agency: Office of Transport Security
Topic: Auscheck Monitoring and Reporting
Hansard Page: Written Question

Senator Ludwig asked:

The Joint Committee of Public Accounts and Audit's report recommended that **AusCheck should be required to monitor and report annually to the Attorney-General** on the adequacy of ASIO, the AFP and DIMA (now DIAC) in completing background checks for ASIC applications (Recommendation 7). What is the Federal Government's response to this recommendation?

Answer:

The Joint Committee of Public Accounts and Audit's final report was tabled on 4 December 2006. The report makes 19 recommendations in relation to aviation security measures. The Government will consider these recommendations having regard to the potential impact their introduction will have on the aviation industry, and their capacity to strengthen aviation security. The Department of Transport and Regional Services is preparing the Government's responses to this report.

Senate Legal and Constitutional Affairs Committee

ANSWERS TO QUESTIONS ON NOTICE

Inquiry into Auscheck Bill 2006

March 2007

Department of Transport and Regional Services

Question: 1

Division/Agency: Office of Transport Security
Topic: Numbers of Aviation Security Identification Cards and
Maritime Security Identification Cards
Hansard Page: p. 14 of Transcript

Senator Ludwig asked:

Senator LUDWIG—Could you take it on notice—unless you have already answered this somewhere else, in which case you can provide it to the committee a lot earlier—to provide the length of time the 7,000-odd that are still in the system have been in the system by month and number, so that the committee has an understanding of how old or how new, as the case may be, some of these applications are. Can you also tell us how many have been refused as well? That would be the same for ASIC. I think the tail has certainly shrunk, if my memory serves me correctly, but if you would not mind providing the same information of those that are currently in the system and awaiting approval or at least sending out by post or however you do it.

Answer:

The Department has received 83 937 Aviation Security Identification Card (ASIC) applications from issuing bodies in the period of 6 March 2006 to 06 March 2007. In 83 658 of these 83 937 cases, the applicants have been notified of the application outcome. 223 were refused an ASIC, and in 373 of the cases, the Secretary advised the issuing body that the applicants were eligible for a qualified/conditional ASIC. 279 ASIC applications are currently with the Department being processed. 263 were received within the last 14 days, nine were received in the last 15-30 days, and seven were received over 30 days ago.

As at 2 March 2007, over 79 300 MSIC applications had been received by the Department and 74 000 applicants have been advised of the outcome of their background check. The following table shows the number of applications that are in the system by month, as at 2 March 2007.

Month	Maritime Security Identification Card Applications
February 2006	1
May 2006	6
June 2006	14
July 2006	64
August 2006	110
September 2006	119
October 2006	144
November 2006	174
December 2006	247
January 2007	1534
February 2007	2399
March 2007	26
TOTAL	4838

Senate Legal and Constitutional Affairs Committee

ANSWERS TO QUESTIONS ON NOTICE

Inquiry into Auscheck Bill 2006

March 2007

Department of Transport and Regional Services

Question: 2

Division/Agency: Office of Transport Security
Topic: Aviation Security Identification Card and Maritime Security
Identification Card Numbers
Hansard Page: p. 15 of Transcript

Senator Ludwig asked:

Senator LUDWIG— The ASIC and MSIC cards which are currently or have been appealed to the AAT or other court process, if there are only a few of them, you can perhaps give me the case number or the name; but if there is none then obviously there is a zero return. I am happy for you to take that on notice for both MSIC and ASIC.

Mr Kilner—Zero for MSICs.

Ms Johnson—For ASICs there have been two appeals that were upheld and two that were withdrawn.

Senator LUDWIG—And the names of those?

Ms Johnson—I do not have them.

Senator LUDWIG—I would ask you to take that on notice, if it is available and depending on whether it is on the public record...

Answer:

An applicant for an ASIC undergoes an initial assessment under regulation 6.27A to determine if the applicant has an adverse criminal record. In the case of an adverse finding there is an opportunity under regulation 6.29 for the issuing body to seek the Secretary's approval to issue an ASIC to a person that has an adverse criminal record.

There have been no Administrative Appeals Tribunal hearings resulting from the refusal of an initial assessment under regulation 6.27A. There have been two Administrative Appeals Tribunal hearings appealing the decision of the Secretary to refuse the request for approval to issue an ASIC under the 6.29 review process.

Mr Kevin John Johnson appealed in case AAT # Q2006/85. On 1 June 2006, the Secretary's decision was affirmed. Ms Amelita Eral appealed in case AAT# Q2006/172. On 20 April 2006, the Secretary's decision was affirmed.