



## Australian Government

### Department of Infrastructure, Transport, Regional Development and Local Government

## MSIC Refusals – what to do

### What happened?

I applied for an MSIC and I got a letter from AusCheck saying that I have been refused an MSIC, as I have an adverse criminal record –convicted of a maritime security relevant offence and sentenced to imprisonment (even if they didn't go to prison).

### What are my options?

If you need an MSIC for work, you can:

- 1) Appeal to the Secretary of the Department of Infrastructure, Transport, Regional Development and Local Government; and if you are still refused,
- 2) Appeal to the Administrative Appeals Tribunal

### What's an Appeal to the Secretary of the Department of Infrastructure?

It's a different government Department who can also look at the decision not to give you an MSIC. If you appeal and the Secretary of the Department of Infrastructure determines that you are not a threat to maritime security, then he or she can overturn the AusCheck decision for you to get an MSIC. The Secretary will take into account factors such as the type and nature of the offence, term of imprisonment, conducted since imprisonment, operational need and information considered relevant to the individuals' circumstances.

### Is there a Cost?

No, an appeal to the Secretary of the Department of Infrastructure is free.

### How do I Appeal to the Secretary of the Department of Infrastructure?

You write a letter, email or fax to the Secretary requesting an 'Appeal under 6.08F of the Maritime Transport and Offshore Facilities Security Regulation 2003'. Address the envelope to the 'Secretary of the Department of Infrastructure, Transport, Regional Development and Local Government' but attention it to the 'Director of Identity Security, OTS'.

In this letter, you need to write:

- why you need an MSIC,
- what you were sentenced to? This means did you go to jail or you were given a suspended sentence/ community service.
- how much of the sentence did you serve? That is, did the judge suspend your sentence or did you get parole because of good behavior.

You should also describe what has changed in your life since your conviction and imprisonment. For example, have you gained employment, completed training and/or rehabilitation.

### **What else can I do to increase the chance of my Appeal being successful?**

You should provide supporting documentation with your appeal. Examples of supporting documentation include:

- character and work references,
- employment documents (like pay summaries or a letter of job offer),
- training certificates.

Note that references from employers acknowledging the applicant's offences are particularly encouraged (although not compulsory).

If you need more information, you may call 02 6274 7748 to talk to a Case Officers in the Identity Security Section of the Department of Infrastructure about your situation and how to lodge an appeal.

These people will manage your appeal and present it to the Secretary's representative for you. If you talk to them and tell them your situation, they can tell you what documents you may wish to put in your appeal. You may also wish to seek legal advice or advice from an employee representative group.

### **What if they still refuse to give me an MSIC?**

Your first appeal will be an 'Appeal under 6.08F of the Maritime Transport and Offshore Facilities Security Regulation 2003'. If the Secretary's representative refuses to give you an MSIC under 6.08F of the Maritime Transport and Offshore Facilities Security Regulation 2003, you can have a different delegate for the Secretary look at your case by making an 'Appeal under 6.08X of the Maritime Transport and Offshore Facilities Security Regulation 2003'.

A case officer in the Identity Security Section will tell you how to do submit an 'Appeal under 6.08X of the Maritime Transport and Offshore Facilities Security Regulation 2003'.

### **Can I go straight to an Appeal under 6.08X?**

No. Your Appeal must be refused under 6.08F of the Maritime Transport and Offshore Facilities Security Regulation 2003 before you can lodge an 'Appeal under 6.08X of the Maritime Transport and Offshore Facilities Security Regulation 2003'.

### **What if the Secretary of Department of Infrastructure still refuses to give me an MSIC?**

Then you can make a subsequent appeal to the Administrative Appeals Tribunal.

### **What's the Administrative Appeals Tribunal?**

It's a Government organisation who can review the decision to not give you an MSIC. If you believe that you should have got an MSIC, and the Tribunal agrees, then they can overturn previous decisions not to issue you with an MSIC. If your appeal is successful on the basis of information provided then you may be issued with an MSIC.

### **Is there a Cost?**

Yes. To get the Administrative Appeals Tribunal to look at your case there is a fee of around \$640.00.

### **Can my Appeal go straight to the Administrative Appeals Tribunal?**

No. You must be refused under both an 'Appeal under 6.08F of the Maritime Transport and Offshore Facilities Security Regulation 2003' and 'Appeal under 6.08X of the Maritime Transport and Offshore Facilities Security Regulation 2003' before you can have your case go to the Administrative Appeals Tribunal.

**Where can I get more information on the Administrative Appeals Tribunal?**

The letter from AusCheck advising you that have been found ineligible for an MSIC has more information on appealing to the Administrative Appeals Tribunal on page 7.

Additionally, your case officer will be able to tell you where to get help.