



AusCheck Legislation Amendment (2019 Measures No. 1) Regulations 2019

I, General the Honourable Sir Peter Cosgrove AK MC (Ret'd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 13 June 2019

Peter Cosgrove
Governor-General

By His Excellency's Command

Peter Dutton
Minister for Home Affairs

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1 Name

This instrument is the *AusCheck Legislation Amendment (2019 Measures No. 1) Regulations 2019*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Sections 1 to 4 and anything in this instrument not elsewhere covered by this table	The day after this instrument is registered.	20 June 2019
2. Schedule 1, Part 1	The day after this instrument is registered.	20 June 2019
3. Schedule 1, Part 2	The day after the end of the period of 30 days beginning on the day this instrument is registered.	19 July 2019
4. Schedule 1, Part 3	At the same time as item 2 of Schedule 1 to the <i>AusCheck Legislation Amendment (Required Information) Regulations 2019</i> commences.	1 July 2019
5. Schedule 2	1 July 2019.	1 July 2019

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under the following:

- (a) the *AusCheck Act 2007*;
- (b) the *Aviation Transport Security Act 2004*;
- (c) the *Maritime Transport and Offshore Facilities Security Act 2003*.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Document Verification Service

Part 1—Amendments commencing day after registration

AusCheck Regulations 2017

1 Subparagraph 5(m)(i)

Repeal the subparagraph, substitute:

- (i) details of the Category A identification document for the individual (unless the Category A identification document is determined under section 5AA);
- (ia) if the Category A identification document for the individual is determined under section 5AA—details of one or more Category B identification documents or Category C identification documents for the individual, being details AusCheck can use to verify electronically the individual’s identity for the purposes of a background check;

2 After section 5

Insert:

5AA Classes of Category A identification documents that AusCheck cannot use

For the purposes of paragraph 5(m), the Secretary may, by notifiable instrument, determine a class of Category A identification documents if AusCheck cannot use details of documents of that class to verify electronically individuals’ identities for the purposes of background checks.

3 Paragraph 5A(3)(a)

Repeal the paragraph, substitute:

- (a) be made electronically; and

Part 2—Amendments commencing 30 days after registration

AusCheck Regulations 2017

4 Subsection 22(5)

Repeal the subsection, substitute:

- (5) The *notification period* is the period ending 7 days after the ASIC or MSIC is issued to the individual.

5 In the appropriate position in Part 5

Insert:

Division 4—AusCheck Legislation Amendment (2019 Measures No. 1) Regulations 2019

38 Application provision—amendments made by the *AusCheck Legislation Amendment (2019 Measures No. 1) Regulations 2019*

The amendment of section 22 made by Part 2 of Schedule 1 to the *AusCheck Legislation Amendment (2019 Measures No. 1) Regulations 2019* applies in relation to issuing an ASIC or MSIC on or after the commencement of this section.

Part 3—Amendments commencing 1 July 2019

AusCheck Regulations 2017

6 Section 5AA

Omit “paragraph 5(m)”, substitute “paragraph 5(1)(m)”.

Schedule 2—Applications for additional background checks

AusCheck Regulations 2017

1 Paragraph 8(1)(a)

Repeal the paragraph, substitute:

- (a) any of the following provisions:
 - (i) paragraph 6.27AA(1)(a) of the ATS Regulations or paragraph 6.08BA(a) of the MTOFS Regulations (which deal with applications by an issuing body relating to applicants for ASICs or MSICs);
 - (ii) paragraph 6.27AA(1)(b) of the ATS Regulations or paragraph 6.08BA(b) of the MTOFS Regulations (which deal with applications by an issuing body relating to holders of ASICs or MSICs if applications for earlier background checks of the holders were incomplete etc.); or

Aviation Transport Security Regulations 2005

2 After paragraph 6.27AA(1)(a)

Insert:

- (b) the holder of an ASIC if the issuing body considers on reasonable grounds that either or both of the following subparagraphs apply in relation to the last application (the ***previous application***) for a background check on the holder made under paragraph (a) or (c):
 - (i) any of the requirements of the *AusCheck Regulations 2017* for the previous application were not satisfied;
 - (ii) the Secretary AGD did not have all of the required information (within the meaning of the *AusCheck Regulations 2017*) for the individual when AusCheck undertook a background check in response to the previous application; or

3 In the appropriate position in Part 10

Insert:

Division 14—Amendments made by the AusCheck Legislation Amendment (2019 Measures No. 1) Regulations 2019

10.35 Applications for additional background checks

For the purposes of paragraph 6.27AA(1)(b), as inserted by the *AusCheck Legislation Amendment (2019 Measures No. 1) Regulations 2019*, it does not matter whether the previous application was made before, on or after 1 July 2019.

Maritime Transport and Offshore Facilities Security Regulations 2003

4 After paragraph 6.08BA(a)

Insert:

- (b) the holder of an MSIC if the issuing body considers on reasonable grounds that either or both of the following subparagraphs apply in relation to the last application (the ***previous application***) for a background check on the holder made under paragraph (a) or (c):
 - (i) any of the requirements of the *AusCheck Regulations 2017* for the previous application were not satisfied;
 - (ii) the Secretary AGD did not have all of the required information (within the meaning of the *AusCheck Regulations 2017*) for the individual when AusCheck undertook a background check in response to the previous application; or

5 In the appropriate position in Schedule 2

Insert:

**Part 9—Amendments made by the AusCheck Legislation
Amendment (2019 Measures No. 1)
Regulations 2019**

110 Applications for additional background checks

For the purposes of paragraph 6.08BA(b), as inserted by the *AusCheck Legislation Amendment (2019 Measures No. 1) Regulations 2019*, it does not matter whether the previous application was made before, on or after 1 July 2019.