

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS
ATTORNEY-GENERAL'S DEPARTMENT

INQUIRY INTO AUSCHECK BILL 2006

Senator Ludwig asked the following questions at the hearing on 1 March 2007:

Question 1, p. 16 of Transcript

Senator LUDWIG—In terms of how the information will be stored, it seems that a lot of that will be by regulation in terms of the type. This is, as I understand it, a framework legislation. When will the regulations be available?

Ms Kelly—We are in the hands of the office of legislative drafting. We have provided some preliminary drafting instructions. Obviously the form of the bill will determine the outcome of those regulations as well, but as yet we do not have a draft from the office of legislative drafting.

Senator LUDWIG—Is there a timetable to obtain a draft?

Ms Kelly—They provide an indicative timetable of eight weeks from the time of delivery of instructions. On that timetable, I think we have approximately another month to go.

Senator LUDWIG—When they are available, can you make those available to the committee, or is there a reason that you could not make a draft available to the committee?

Ms Kelly—I am not aware of any reason...

The answer to the honourable senator's question is as follows:

Regulations are still being developed and will not be finalised until the AusCheck Bill is passed. Once they have been approved by the Attorney-General they will be available to the parliament for scrutiny through the usual process.

Question 2, p. 18 of Transcript

Senator LUDWIG—As I understand the way the scheme will work, it will be by an application via a website. Has the application been developed yet that will demonstrate what information will be required?

Ms Kelly—Substantially, yes.

Senator LUDWIG—Is that available to the committee?

Ms Kelly—We can certainly tell you the information that we will be requiring on the application form in relation to each individual. It is not in hard copy form; it is a web page.

Senator LUDWIG—You can print the web page out though.

Ms Kelly—Yes.

Senator LUDWIG—Do you have that?

Ms Kelly—Not here. It is the various categories of identification information. The thing that is different from the current system is some additional information on address history. The last 10 years of address history is the additional proof of identity requirement that we will be introducing. Other than that, the information is the same as is currently collected.

The answer to the honourable senator's question is as follows:

The application form that is required for a background check has not yet been finally settled. At this point, the information that will be required to be included in the application form will be:

- identity information: name, date of birth, gender, other names, residential address details for last 10 years and contact details for the individual subject to the background check
- work information: employer and issuing body details for the individual subject to the background check
- payment information: transaction type, amount, and credit card details.

Question 3, p. 22 of Transcript

Senator LUDWIG—...In the definitions for the AusCheck scheme 'personal information' means personal information but (b) 'relates to the administration of the AusCheck scheme'. What does that mean and what information might be included under that section?

Ms Kelly—I might have to take that on notice to explain that definition. It is not immediately obvious to me.

Senator LUDWIG—...While you are taking that on notice, my question really relates to how broad or how narrow it might be. So what are the restrictions? Perhaps you could provide some examples of that which relates to the administration of the AusCheck scheme itself and the types of personal information.

Ms Kelly—That is in relation to the (b) part of the definition?

Senator LUDWIG—Yes, the (b). Could it, for example, collect records on the usage of the ASIC card or the MSIC card itself under that provision? Of course, with a lot of these things people might keep a check on how it is used, where it is used and whether or not you can include that in the information that you require or keep.

Ms Kelly—It would depend on whether that related to the administration of the scheme.

Senator LUDWIG—I do not know, you see.

Ms Kelly—I mean, the scheme is about determining whether individuals are a suitable risk to have access to secure areas of airports and that would mean—

Senator LUDWIG—It does not only say that, does it? I did not mean to interrupt you, but I know that part of it. But it is also not limited—'such other matters as prescribed by regulation'.

Ms Kelly—We will take that on notice.

The answer to the honourable senator's question is as follows:

The definition of *AusCheck scheme personal information* has been included to ensure that all personal information that is obtained by AusCheck for the purposes of the AusCheck scheme is treated in a consistent way. Paragraph (b) is included to make certain that personal information that is generated through the administration of the AusCheck scheme is included in the specific protections that apply to AusCheck scheme personal information in the Bill, and in particular, subclause 14(2) of the Bill. The type of personal information that may be generated through the administration of the AusCheck scheme, as opposed to being obtained under the AusCheck scheme, would include information that is generated about the person. This would include personal information that is an outcome of the AusCheck scheme, such as an assessment by AusCheck that the person has an adverse criminal record.

The definition expands on the definition of *personal information* in the *Privacy Act 1988*. By employing this expanded definition, the Bill ensures that the protections it gives in clause 15 to information relating to the background checks coordinated by AusCheck are extended as far as possible.