



Defence Trade Controls Amendment Bill 2023

Strengthening Australia's Defence Export Control Framework.

The [2023 Defence Strategic Review](#) made clear that Australia faces a deteriorating strategic environment. To keep pace with these circumstances, it is essential that Australia has a robust export control regime.

At the same time, to realise the full potential of AUKUS, partners have agreed to streamline the flow of defence trade. This includes establishing an export licence-free environment which will support industry, higher education and research sectors in all 3 nations, improving the speed and scale of technology transfer.

Australia's export control system is a key element of the protective security framework. It aims to prevent military goods and technologies from being transferred to foreign individuals or entities in ways that prejudice Australia's interest.

Recognising the challenges in our strategic environment, the Deputy Prime Minister introduced the Defence Trade Controls Amendment Bill 2023 (the Bill) to Parliament on 30 November 2023.

This Bill strengthens Australia's defence export control framework, including by creating 3 new criminal offences in the [Defence Trade Controls Act 2012](#) for the:

- supply of certain [Defence and Strategic Goods List \(DSGL\) Technology](#), as defined in the DSGL (i.e. technical data such as blueprints) to a non-exempt foreign person within Australia.
 - An exempt foreign person includes:
 - a citizen or permanent resident of Australia; the UK or US who is located in Australia
 - a foreign national with a security clearance issued by the governments of Canada, New Zealand, the US or UK
 - a foreign national employee who is a national of a country listed on the *Defence Trade Controls Act 2012* Foreign Country List where their employer is the supplier
 - a visiting foreign national of a country listed on the Foreign Country List where certain conditions are met.
- supply of certain DSGL goods and technology, that was previously exported or supplied from Australia, from one foreign country to another foreign country, person or entity.
 - An exempt foreign person includes:
 - a citizen or permanent resident of Australia; the UK or US who is located in any of those countries
 - a person with a security clearance issued by the governments of Australia, Canada, New Zealand, the US or UK
 - a foreign national employee who is a national of a country listed on the Foreign Country List, or an Australian citizen or permanent resident, where their employer is the supplier.
 - Exceptions to be included in the regulations include:
 - certain supplies of DSGL goods and technology that are made from a foreign country that is specified in the Foreign Country List.
- provision of DSGL services related to Part 1 of the DSGL to foreign nationals.
 - Exceptions in the Bill include:
 - a DSGL service provided to a citizen or permanent resident of Australia; the UK or US who is located in any of those countries
 - a foreign national with a security clearance issued by the governments of Canada, New Zealand, the US or UK

- a foreign national employee who is a national of a country listed on the Foreign Country List, where their employer is providing the DSGL services
- a DSGL service in connection with a permit issued under another section of the *Defence Trade Controls Act 2012*.
- Exceptions to be included in the regulations include:
 - a DSGL service provided to a citizen or permanent resident of Canada or New Zealand.

The Australian Government is continuing to consult key stakeholders on the prospect of additional exceptions including:

- **Fundamental Research.** An exception for research considered Fundamental Research, where Fundamental Research is defined to mean basic and applied research in science and engineering where the resulting information is ordinarily published and shared broadly within the scientific community, as distinguished from research whose results are restricted for proprietary reasons or national security reasons.
- **Build-to-Print.** An exception for Australian entities in the Australian supply chain where they “build-to-print” a component of DSGL goods or technology, where the component built would not enable the Australian supply chain entity to reverse engineer and then make the DSGL goods or technology.

In support of establishing a licence-free environment, the Bill will also provide a national exemption to the UK and the US from Australia’s export control permit requirements under the *Defence Trade Controls Act 2012*.

Much of the existing collaboration and trade between Australia and non-AUKUS partners will be unaffected by these changes. Rather, the intent of the Bills is to prevent sensitive defence goods and technologies from being passed to foreign individuals or entities in a manner that may harm Australia’s interests.

Legislation

Deputy Prime Minister and Minister for Defence, the Hon Richard Marles MP introduced the legislation to Parliament on 30 November 2023.

The Impact Analysis – Australia’s Export Control Framework outlines the opportunities and consequences of making changes to Australia’s export control framework.

 [Impact Analysis: Strengthening Australia’s Export Control Framework \(PDF, 6.91 MB\)](#)

The legislation and Explanatory Memorandum can be viewed on the [Parliament of Australia website](#).

Next steps

The Bill has been referred to the [Senate Foreign Affairs, Defence and Trade Legislation Committee](#) for inquiry and for report. The Committee is accepting submissions and will report on 30 April 2024.


The Australian Government will consult with stakeholders on additional exceptions to be included in the Defence Trade Controls Regulation 2013 and the DSGL from December 2023 to early 2024.


The Australian Government will continue consultation with peak industry and higher education bodies in the drafting of the exceptions to be included in the Defence Trade Controls Regulation 2013 and DSGL.

Further public consultation will be undertaken on the amendments to the Regulation in early 2024.

Contacts

To provide further feedback on the Bill email:
exportcontrol.reform@defence.gov.au

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