



Australian Government
Defence



DEFENCE EXPORT CONTROLS

DEEP DIVES

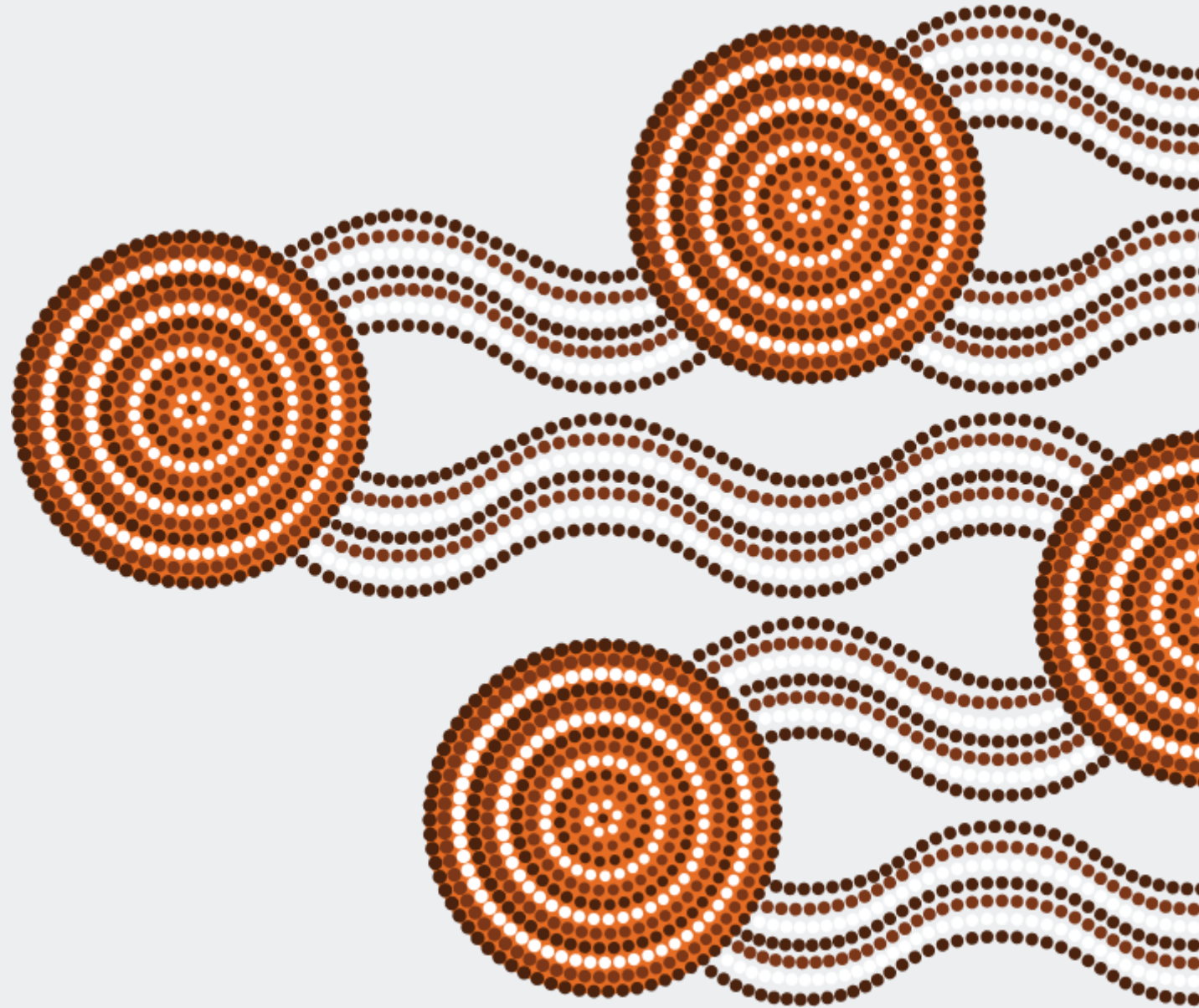
AUKUS Licence-free Environment

Thursday, 7 November 2024

Acknowledgement of Country

I would like to acknowledge the Traditional Custodians of the land on which we meet today, and pay my respects to their Elders both past and present.

I would also like to pay my respects to the Aboriginal and Torres Strait Islander men and women who have contributed to the defence of Australia in times of peace and war.



Introduction: Export Controls Overview

We are Defence Export Controls

Defence Export Controls (DEC) is the **Commonwealth regulator** for the movement of defence-related goods and technology. This involves:

- **Assessing applications** to transfer
- **Issuing permits** to legally operate
- **Monitoring reporting obligations** are met
- **Performing compliance audits** (incl. end-user verification)

Permits may be required when seeking to **export, supply, publish** or **broker** military and/or dual-use goods and technology on the Defence Strategic Goods List (DSGL), as well as to publish or provide services related to military goods and technology on the DSGL.



Current Export Controls Framework

DEC administers Australia's defence export controls framework through a combination of:

Federal Legislation

Covering 'Controlled' items listed on the DSGL



[Customs \(Prohibited Exports\) Regulations 1958](#)



[Defence Trade Controls Act 2012](#)



[Weapons of Mass Destruction \(Prevention of Proliferation\) Act 1995](#)



[Customs Act 1901 Military End-Use provisions \(section 112BA\)](#)

Covering 'Uncontrolled' items not listed on the DSGL

Legislative Instruments



[Defence and Strategic Goods List 2024](#)



[Australian Military Sales Program items 2024](#)



[Excluded DSGL Goods and Technologies List 2024](#)



[Foreign Country List 2024](#)



Changes Have Occurred

The ***Defence Trade Controls Amendment Act 2024*** (and supporting *Defence Trade Legislation Amendment Regulations 2024*) commenced on 1 September 2024, changing Australia's defence export control laws. Two key changes were:

- 1 **Licence-free environment** between Australia / US / UK, where permits may not be required.
- 2 **3 new offences** where permits may be required (subject to 6-month transition period).

8 April 2024



*Defence Trade Controls
Amendment Act 2024*
received Royal Assent

1 September 2024



AUKUS licence-free environment
commenced; permit applications
for new offences became available

1 March 2025



Compliance transition period
for new offences ends; criminal
penalty provisions apply



Expanded Export Controls Provisions

Australian defence export control offences (effective as of 1 September 2024):

	Offence Provision	Description of Control	Part 1	Part 2 (Very Sensitive)	Part 2 (Sensitive)	Part 2 (Other)
'Controlled' provisions (covering items on the DSGL)			Applies to DSGL ...			
EXISTING	Customs Regs (13E)	Physical/tangible export of DSGL goods cross-border	✓	✓	✓	✓
EXISTING	DTC Act (s10)	Intangible supply of DSGL technology cross-border	✓	✓	✓	✓
NEW	DTC Act (s10A)	Supply of DSGL technology to a foreign person in Australia	✓	✓	✓	✓
NEW	DTC Act (s10B)	Re-export or re-supply of certain DSGL goods/technology outside Australia	✓	✓	✓	✗
NEW	DTC Act (s10C)	Provision of certain DSGL services outside Australia	✓	✗	✗	✗
EXISTING	DTC Act (s14A)	Publication of certain DSGL technology	✓	✗	✗	✗
EXISTING	DTC Act (15)	Brokering of certain DSGL goods and technology	✓	* ✓	* ✓	* ✓
'Uncontrolled' provisions (covering items not on the DSGL)			Applies to DSGL ...			
EXISTING	WMD Act	Export/supply of uncontrolled goods, and provision of services that may be used in/assist a weapons on mass destruction (WMD) program	N/A			
EXISTING	Customs Act (112BA)	Export of uncontrolled goods that may be for military end-use (MEU)	N/A			

* Brokering permits only required for DSGL Part 2 when goods or technology may be for WMD or MEU purposes



Week 1: AUKUS Licence-free Environment

Overview of the Licence-free Environment

Under the licence-free environment many military and dual-use goods, technologies and services can be **transferred without permits** between AUKUS partners.

- **In July 2023**, Australian, US and UK leaders **committed to streamlining defence trade** among AUKUS partners through the creation of a trilateral export licence-free environment.
- **On 1 September 2024**, this **licence-free environment was enabled** by legislative changes implemented by Australia, the US and UK.
- **As a result**, a 'national exemption' for the US and UK is now available for the **Customs (PE) Regulations** (Section 13E) and **DTC Act** (Sections 10, 10A, 10B, 10C, 15).



Impact on defence trade for Australia

The licence-free environment is now available to use for:

~900

export permits

to the US and UK previously required under Australian law (valued at \$5b / year)



70%

defence exports

from the US to Australia subject to International Traffic in Arms Regulations (ITAR)



80%

defence trade

from the US to Australia subject to Export Administration Regulations (EAR)



~200

export permits

previously required for defence exports from the UK to Australia (valued at \$129m / year)



Using the Licence-free Environment

The following **criteria must all be met** to make use of the licence-free environment.

Registration and Certification	The exporter or supplier has a Defence Export Controls Registration Number (DCRN) and has enrolled via the My Australian Defence Exports (MADE) portal as an AUKUS Authorised User. <i>Note: if activity is subject to ITAR, the exporter or supplier must also be a US-certified 'Authorized User'.*</i>
End-user	The export, supply or provision is to an Australian / UK / US citizen, permanent resident, corporation, government, or government authority. <i>Note: if involving ITAR, the export, supply or provision must be to another US-certified 'Authorized User'.*</i>
Location	The export, supply is to, or the services are received at, a place in Australia / US / UK.
Excluded Lists	The DSGL goods or technology are not on an excluded list (for Australia this is the Excluded DSGL Goods & Technologies List or Australian Military Sales Program items).
Pre-notification	DEC has been notified prior to the export or supply occurring via the MADE portal . <i>Note: this is only required for exports or supplies out of Australia (e.g. Customs Regs 13E / DTC Act s10 activities).</i>

* further information on US-certified 'Authorized Users' and their ITAR exemption access is available on the DEC website ([Access Types factsheet](#))



Access Types

There are two types of access to the AUKUS licence-free environment:

1. **‘Partial’ Access:** exemptions to Australia’s export control laws
2. **‘Full’ Access:** exemptions to Australia’s export control laws + additional exemptions to US law under ITAR §126.7

Further Information

Use the MADE Portal to apply for access to the licence-free environment, including the additional option to access the ITAR exemption.

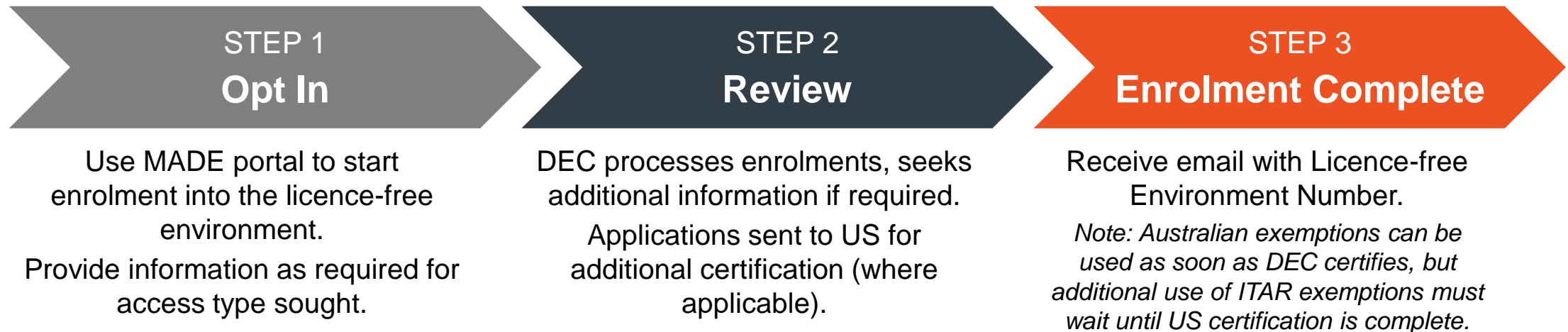
Persons/entities who become certified by the US as **Australian Authorized Users** will already be registered as **AUKUS Authorized Users** and be able to access Australian exemptions.

‘Partial’ Access (non-ITAR)	VS.	‘Full’ Access (ITAR)
<p data-bbox="1352 575 1740 753" style="text-align: center;">AUKUS Authorized User [certified by Australia]</p>		<p data-bbox="1905 575 2293 753" style="text-align: center;">Australian Authorized User [certified by US]</p>
<p data-bbox="1365 786 1727 818">What does it provide?</p> <p data-bbox="1327 833 1765 901">Australian legislative exemptions only</p>		<p data-bbox="1913 786 2277 818">What does it provide?</p> <p data-bbox="1867 833 2323 901">US ITAR §126.7 exemptions; (Australian exemptions carry over)</p>
<p data-bbox="1319 933 1765 965">Who can transfers involve?</p> <p data-bbox="1327 981 1758 1082">Any Australian / US / UK person and/or entity at a place in Australia / US / UK</p>		<p data-bbox="1867 933 2323 965">Who can transfers involve?</p> <p data-bbox="1880 981 2311 1082">For ITAR, only other US certified ‘Authorized Users’ in an AUKUS country</p>
<p data-bbox="1319 1115 1765 1146">What are your obligations?</p> <p data-bbox="1345 1162 1740 1263">Pre-notification to DEC when undertaking certain exempted activities + record-keeping</p>		<p data-bbox="1867 1115 2323 1146">What are your obligations?</p> <p data-bbox="1867 1162 2323 1263">Record-keeping in-line with US ITAR T&Cs; only pre-notify DEC if exporting from Australia</p>



Enrolment Process

Licence-free environment **enrolments follow a basic process**, regardless of access type.















Once You Are Enrolled ...

- **Permits no longer required for activities that satisfy the licence-free environment requirements**
- **Use of your licence-free environment number as your Export Declaration Number (EDN) in the Integrated Cargo System (ICS)**
- **Multi-shipment use of your licence-free environment number**



Example Scenarios

Your circumstances will influence if – and what level of – access to the AUKUS licence-free environment will benefit you.

Options \ Scenarios	Transferring goods or technology not on the DSGL	Export/supply to countries other than US / UK	Export/supply to US / UK <u>not involving</u> ITAR controlled items	Export/supply to US / UK <u>involving</u> ITAR controlled items	Receiving ITAR controlled items from US / UK
Apply for DEC Permit Only	N/A	 Consider if exemptions apply	 Consider if exemptions apply	 Need relevant ITAR approval from US	 Need relevant ITAR approval from US
Use Licence-free Environment (Australian exemption)	N/A	 Trade not occurring between AUKUS countries	 Consider other eligibility criteria	 Does not cover ITAR	 Does not cover ITAR
Use Licence-free Environment (ITAR exemption)	N/A	 Trade not occurring between AUKUS countries	 Not required if ITAR not involved	 Required to <u>transfer</u> ITAR licence-free	 Required to <u>receive</u> ITAR licence-free

Note on   Persons/entities who are certified to access the **ITAR exemption** will have already been registered with DEC to access the **Australian exemption**



Legal Obligations

Pre-notification must be given (and records kept) when using the AUKUS exemption (i.e. licence-free environment) for Customs Regs 13E exports or DTC Act s10 supplies.

Information you will need to provide / retain for ...	Pre-Notification (13E / s10 only)	Records (for all uses)
Description of DSGL goods, technology, or services provided	Provide in MADE	Keep Record
Name of person who received DSGL goods, technology, or services	Provide in MADE	Not Required
Country in which DSGL goods, technology, or services were received	Provide in MADE	Keep Record
Date(s) of activity / activities in question	Provide in MADE	Not Required
Unique identifier of permit	N/A	N/A

Note: additional obligations may arise depending on the type of export (e.g. ITAR controlled items).

Records must be retained for 5 years from the date of export/supply, or provision of services. Failure to retain or produce records is an offence under the *Defence Trade Controls Act 2012*.



Close: Wrap-Up

Penalties

Those prosecuted for offences under Australia's export control laws may face a **penalty of up to 10 years imprisonment, and/or a fine up to 2,500 penalty units**.*

Compliance Transition Period

Although the *DTC Amendment Act* commenced on 1 September 2024, a 6-month transition period applies to the Section 10A, 10B, and 10C offences.

From 1 March 2025, criminal penalties will apply to those offences.

* *one penalty unit (as of 7 November 2024) = \$330, for a total maximum fine of \$825,000*



DEC Deep Dive Series

Defence Export Controls is delivering **targeted outreach sessions** in preparation for the end of the compliance transition period on 1 March 2025 for the new controls.

Date	Topic
Thu 7 Nov	AUKUS Licence-free Environment
Thu 14 Nov	Section 10A
Thu 21 Nov	Fundamental Research & Nationality
Thu 28 Nov	Section 10B
Mon 2 Dec	Industry (Info Session)
Tue 3 Dec	Higher Education & Research (Info Session)
Fri 6 Dec	Section 10C
Tue 10 Dec	Compliance and Reporting Obligations

Packs from each presentation and information on other Outreach events are accessible on the Defence Export Controls website:

[Outreach and training | Business & Industry | Defence](#)



Where to Get Help and Assistance?

1. **Contact your organisation's export controls office**
2. **Visit the Defence Export Controls website**
<https://www.defence.gov.au/business-industry/exporting>
3. **Use the MADE portal self-help tool and guidance materials**
4. **Email exportcontrols@defence.gov.au**
5. **Call 1800 333 362 (1800 DEFENCE) 'Option 4'**
between 8.30-16.30 AEST

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This document is designed to assist you in understanding Defence Export Control's regulatory framework. It may include some generalisations about the law.

Defence does not guarantee the accuracy, currency or completeness of any information contained in this document. Some provisions of the law referred to have exceptions or prerequisites, not all of which may be described here.

This document is not legal advice, nor intended to be legal advice. Your particular circumstances and activities must be taken into account when determining how the law applies to you, including other regulatory obligations beyond Defence Export Controls.