



Australian Government
Defence



DEFENCE EXPORT CONTROLS

DEEP DIVES

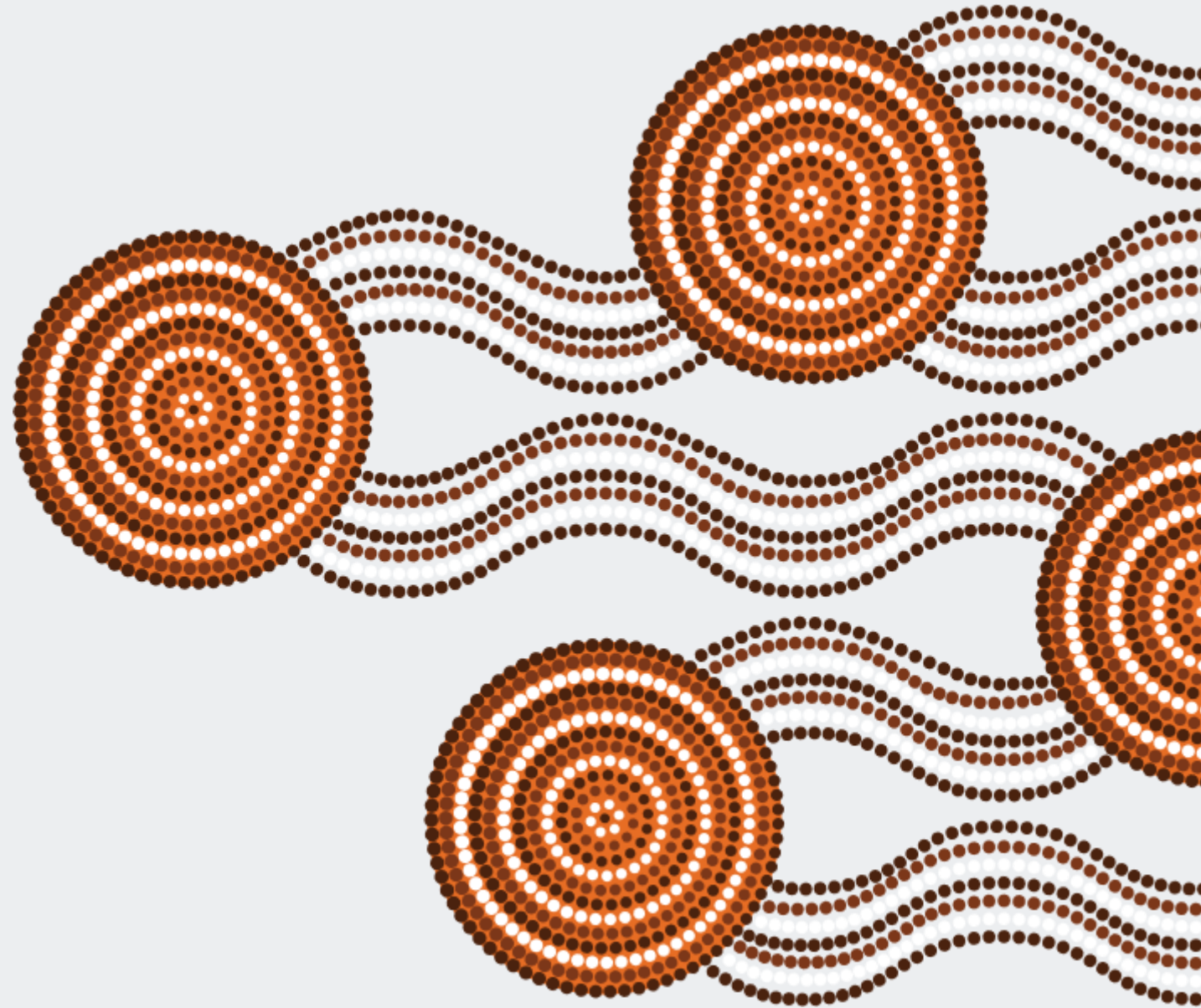
**Compliance and
Reporting Obligations**

Tuesday, 10 December 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 6: Compliance and Reporting

New Offences in the DTC Act

Three new offences have been introduced to the *Defence Trade Controls Act 2012*.

<i>Defence Trade Controls Act 2012 – New Offences</i>	Applies to DSGL ...			
	Part 1	Part 2 (Very Sensitive)	Part 2 (Sensitive)	Part 2 (Other)
10A: Supply of DSGL technology to a foreign person in Australia	✓	✓	✓	✓
10B: Re-export or re-supply of certain DSGL goods/technology outside Australia	✓	✓	✓	✗
10C: Provision of certain DSGL services outside Australia	✓	✗	✗	✗



Note: permits are not required when using the **AUKUS** licence-free environment, including for these new offences



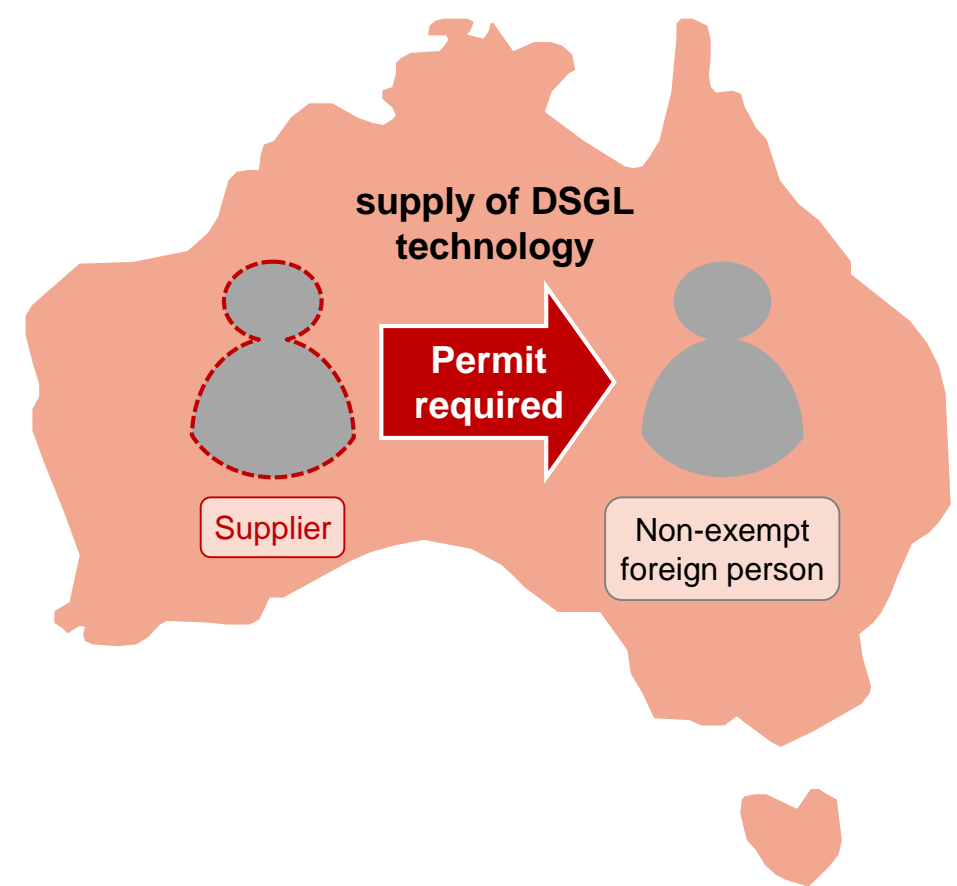
Section 10A Overview

Applies to DSGL ...	Part 1	Part 2 (Very Sensitive)	Part 2 (Sensitive)	Part 2 (Other)
	YES	YES	YES	YES

It is an **offence under Section 10A** of the *Defence Trade Controls Act 2012* if:

1. **A person supplies** (incl. provision of access)
2. **DSGL technology** (not goods)
3. **to a ‘non-exempt’ foreign person**
4. **within Australia**

Without a permit from DEC



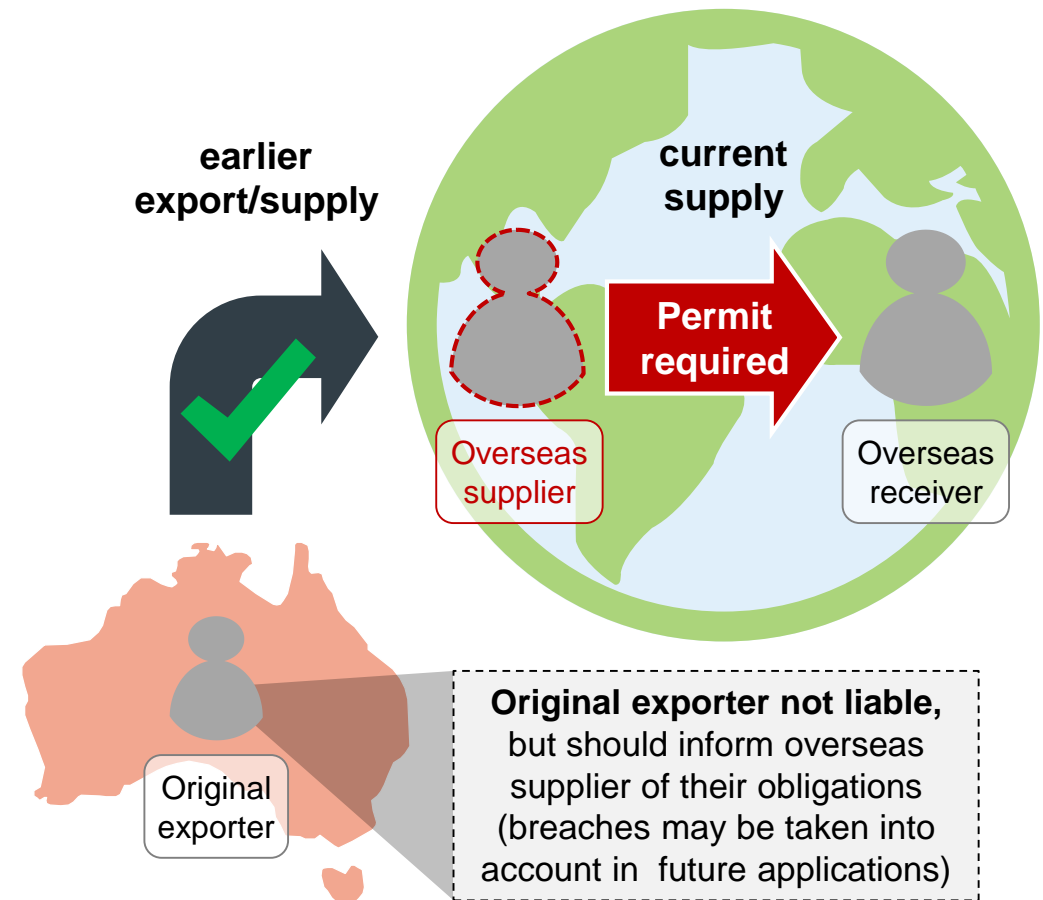
Section 10B Overview

Applies to DSGL ...	Part 1	Part 2 (Very Sensitive)	Part 2 (Sensitive)	Part 2 (Other)
	YES	YES	YES	NO

It is an **offence under Section 10B** of the *Defence Trade Controls Act 2012* if:

1. A person supplies to another person (current supply)
2. from one place outside Australia, to another place outside Australia
3. certain DSGL goods and technology (excl. firearms)
4. previously exported / supplied out of Australia in a manner requiring a DEC permit (earlier export/supply)

Without a permit from DEC



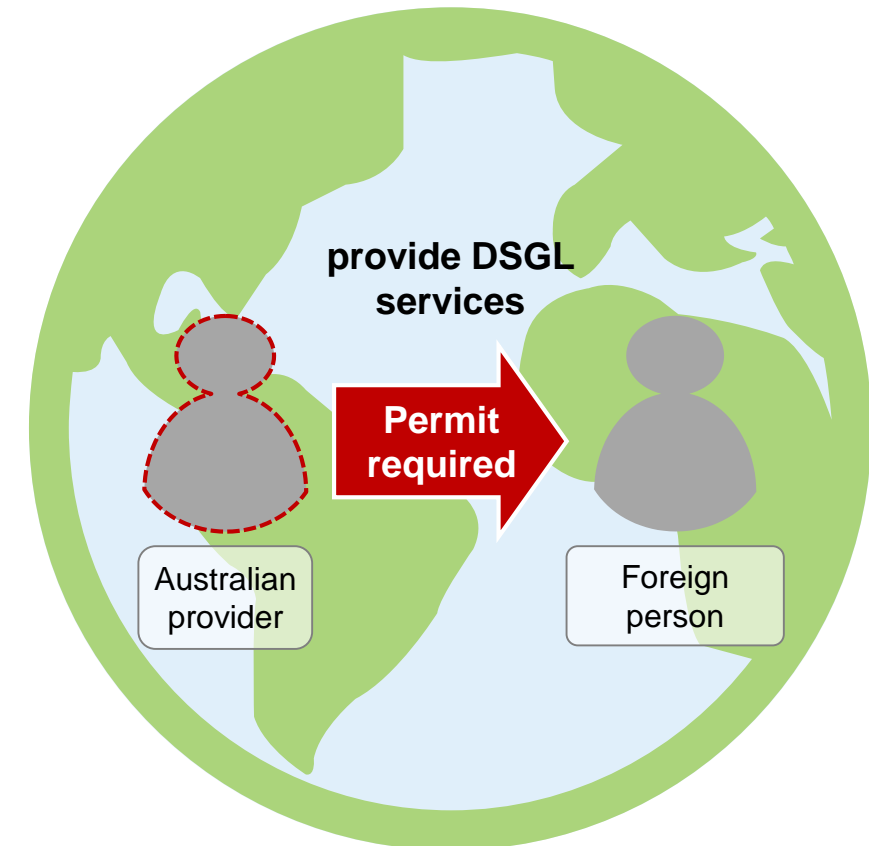
Section 10C Overview

Applies to DSGL ...	Part 1	Part 2 (Very Sensitive)	Part 2 (Sensitive)	Part 2 (Other)
	YES	NO	NO	NO

It is an **offence under Section 10C** of the *Defence Trade Controls Act 2012* if:

1. An Australian person located outside Australia
2. provides certain DSGL services
3. to a foreign person located outside Australia

Without a permit from DEC



General Guidance on Exceptions

Each new offence has various exceptions that **remove the need for a permit**.

Description	Section 10A	Section 10B	Section 10C
Fundamental Research (DSGL Technology)	De-Control: 4 (def ⁿ) + DSGL 3.9	De-Control: 4 (def ⁿ) + DSGL 3.9	De-Control: 4 (def ⁿ) + DSGL 3.9
Defense Trade Cooperation Treaty	Exception: 10A(4) + Reg 7	Exception: 10B(5) + Reg 7	Exception: 10C(3) + Reg 7
Australian Government Employees	Exception: 10A(6)	Exception: 10B(7)	Exception: 10C(6)
Covered Security Clearances	Exception: 10A(7)	Exception: 10B(8)	Exception: 10C(7)
Build-to-Print	Exception: 10A(7A) + Reg 7A	--	--
FCL Involvement	Exception: 5C(1C)	Exception: 10B(8B)	--
Foreign Work Authorisation (SAMS)	Exception: 10A(8) + Reg 7B	--	Exception: 10C(2A) + 10C(2B)
Original Equipment Manufacturer (OEM)	--	Exception: 10B(8A)	--
Elapsed Time Period	--	Exception: 10B(8C) + Reg 7C	--
Supplies from AUKUS Partners	--	Exception: 10B(9) + Reg 7D	--
Intracompany	--	Exception: 10B(6)	Exception: 10C(4)
Grandfathering (prior 1 September 2024)	--	Exception: 10B(8C)	Exception: 10C(7A)
Five Eyes Recipients	--	--	Exception: 5C(2A)
Maintenance Services	--	--	Exception: 10C(5)



AUKUS Exemption – Pre-Notification / Records

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 (13E / s10 only)
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*.



New Offences – Records

Records must be kept for the new Section 10A / 10B / 10C activities, whether they were conducted **under a permit** – OR – when using an exception.*

Information you will need to retain in records for ...	Permit Activities	Exempted Activities
Description of DSGL goods, technology, or services provided	Keep Record	Keep Record
Name of person who received DSGL goods, technology, or services	Keep Record	Not Required
Country in which DSGL goods, technology, or services were received	Not Required	Keep Record
Date(s) of activity / activities in question	Keep Record	Not Required
Unique identifier of permit	Keep Record	N/A

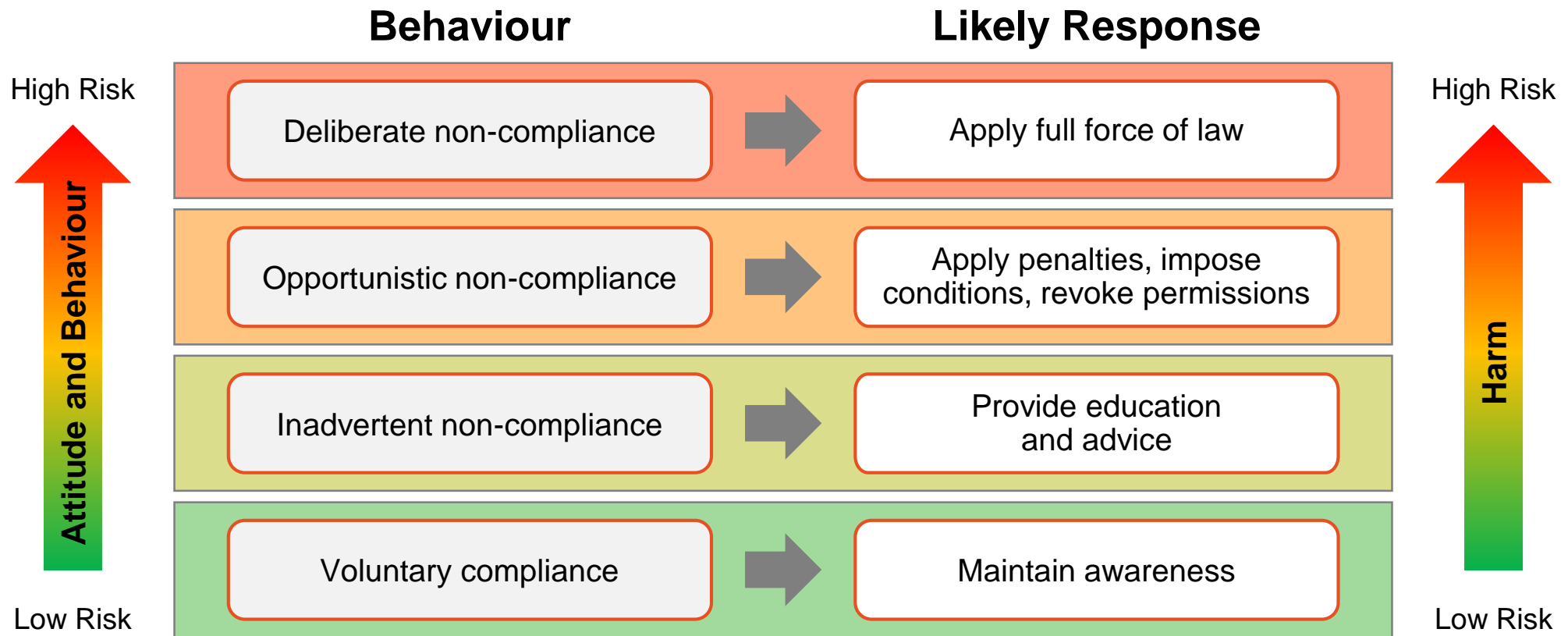
Note: the record-keeping obligations above relate only to activities covered by Section 11 permits (e.g. permits for Section 10 / 10A / 10B/ 10C). For brokering permits, records would also be required for the place in which the DSGL goods/tech/services were supplied from.

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*.



DEC's Compliance Approach

DEC takes a **graduated approach to compliance** using a proportionate response model.



Proportionality

The **Proportionate Response Model**:

- **Recognises** that most regulated entities are prepared to voluntarily comply with Australia's export control laws
- **Enables** and empowers the regulated community to self-audit and expand their own due diligence checks
- **Verifies** compliance, including through audits, data analysis, and intelligence reporting
- **Escalates** suspected non-compliance to our enforcement agencies for further investigation

Factors taken into account when assessing suspected non-compliance

Risk of harm

Seriousness of the contravention

Apparent intent of the entity
(inadvertent, negligent, reckless or deliberate)

Compliance history

Frequency of the issue occurring



Remaining Compliant During Change

Maintain compliance through self-audits and voluntary disclosures for the:

- **AUKUS licence-free environment**
(since 1 September 2024)
- **Three new offences: Section 10A / 10B / 10C**
(from 1 March 2025)

Compliance practices for pre-existing controls remain unchanged.

Note: Section 10A / 10B / 10C offences are subject to a 6-month compliance transition period from the commencement of the *Defence Trade Controls Amendment Act* on 1 September 2024.

From 1 March 2025, the criminal penalty provisions for each new offence will take effect.

Reminder: 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.***

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



Supporting Compliance into the Future

DEC is committed to **continuing outreach and education** in support of compliance.

We value your feedback!

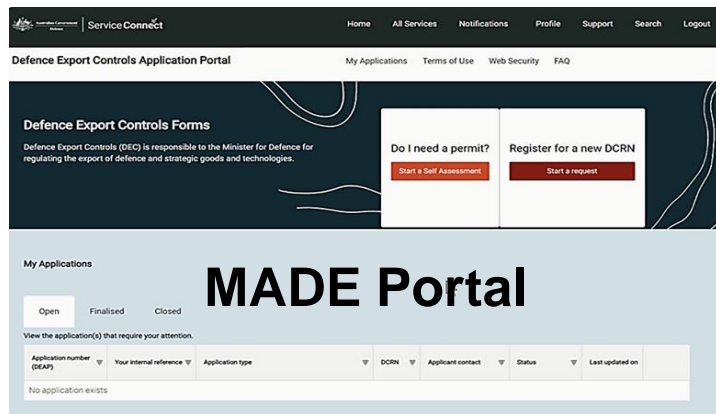
- How have you found the DEC Deep Dive series over the last 6 weeks?
- What education materials or events would you like to see more of?
 - What areas and topics could use further clarity?

Please email dec.outreach@defence.gov.au if you have any comments, questions or feedback about DEC's outreach activities



Close: Wrap-Up

In Summary



Depending on your circumstances, you may now require a permit when conducting an activity under Section 10A, 10B, or 10C of the DTC Act.

If you require a permit, apply via the [My Australian Defence Exports \(MADE\)](#) portal.



Things to remember

- **New offences introduced, bringing Australia in-line with US and UK**
- **AUKUS licence-free environment available; many exceptions for FCL countries**
- **Consider full range of exceptions/exemptions before applying for a permit**
- **Maintain records – even when relying on exceptions/exemptions**
- **Be aware of all obligations to remain compliant**



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

**DEFENCE
EXPORT
CONTROLS**





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.