



SAFEGUARDING AUSTRALIA'S MILITARY SECRETS

Key Information

Key Points

- The Safeguarding Australia's Military Secrets legislation is designed to enhance national security by safeguarding Australia's classified military information and assets.
- The legislation regulates the work certain individuals can perform for a foreign military, government or company without authorisation.
- Former ADF, Defence APS, Australian Submarine Agency personnel, Australian citizens and permanent residents may have obligations under the legislation.
- Individuals committing an offence under the legislation face up to 20 years imprisonment.

Why is the Safeguarding Australia's Military Secrets legislation needed?

Australia's defence training and military technology is world-class. The information, skills and training that individuals receive through their work with Defence are highly sought after by foreign militaries.

The Safeguarding Australia's Military Secrets legislation enhances the protection of Australia's sensitive military information and assets, ensuring it remains in Australia's control.

How does it work?

The Safeguarding Australia's Military Secrets legislation requires some Australians and permanent residents to request foreign work authorisation. The authorisation may be required when working with a military organisation or government body of some foreign countries.

Authorisation is also required if work or training is undertaken:

- through another company or organisation
- as a contractor for a relevant foreign military or government body.

Anyone covered by the legislation must complete a Foreign Work Authorisation request. The request form and more information on the Foreign Work Authorisation process can be found on the SAMS website www.defence.gov.au/SAMS.



Contacts

Email sams.info@defence.gov.au
Within Australia **1800 333 362**
Outside Australia **+61 2 6144 9190**



When does it come into effect?

From Monday 6 May 2024, all individuals covered by the legislation must request authorisation before commencing work, or to continue working in an existing role.

Individuals already working can continue doing so while awaiting the outcome of an authorisation request. Individuals that have not yet started work must wait for the outcome of their request before commencing their new role.

The maximum period for a foreign work authorisation is 3 years. Individuals requiring a longer period of authorisation need to request a new foreign work authorisation before their previous authorisation expires.

Who does it apply to?

From 6 May 2024, Part IXAA of the *Defence Act 1903* requires the individuals listed below to assess their requirement for a foreign work authorisation.

- Former members of the Australian Defence Force, Defence Australian Public Servants and Australian Submarine Agency, who will work for a foreign military or foreign government body.
- All Australian citizens or permanent residents providing training to a foreign military or government body that is related to:
 - Part 1 of the Defence and Strategic Goods List
 - Military tactics, techniques and procedures.

If the individual finds a foreign work authorisation is required, then they must submit a request for authorisation.

Are there any exceptions?

Yes. The SAMS legislation provides the following exceptions to ensure it only applies to the relevant individuals. Individuals do not require authorisation:

- to perform work or training to excluded foreign countries
- if the length of time associated with their previous role as a former ADF or APS Defence employee, has passed in compliance with the job families instrument.

Additionally, authorisation is not required if:

- a current foreign work authorisation is in place for the individual's current employment
- the work is performed as part of the individual's employment by the Commonwealth
- the work performed by an individual is authorised by a written agreement from the Commonwealth such as a Defence contract
- the individual is authorised by the Attorney-General to perform work with an armed force of a foreign country under s119.8 of the *Criminal Code Act 1995*
- the work is providing humanitarian aid or performing an official duty for the United Nations or the International Committee of the Red Cross.

The SAMS legislation is not intended to stop former Defence personnel seeking overseas employment. The Australian Government only cares about people who are unintentionally or deliberately harming Australia's security.

Defence will assess each foreign work authorisation request individually. The requests will be processed as soon as possible, once all the requested information is received.

Penalties

Criminal offences apply to individuals convicted of breaching the SAMS legislation. The maximum penalty is 20 years imprisonment.

Legal obligations under the SAMS legislation come into effect on 6 May 2024.

Individuals requiring authorisation for an existing role have until 7 August 2024, to submit their foreign work authorisation request.

Offences contained in the SAMS legislation are not retrospective. For more details see the SAMS legislation page.

Support and Information

Individuals are encouraged to review advice provided on the Safeguarding Australia's Military Secrets website to determine if they will need a Foreign Work Authorisation. <https://www.defence.gov.au/SAMS>

