



Defence Export Controls Compliance Session – Responses to Questions

12 June 2025

These responses are designed to assist you in understanding Defence Export Control's regulatory framework. It is not legal advice nor intended to be legal advice and it may therefore include some generalisations about the law. Some provisions of the law referred to have exceptions or prerequisites, not all of which may be described here. Defence does not guarantee the accuracy, currency or completeness of any information contained in this document. Your particular circumstances and activities must be taken into account when determining how the law applies to you. These responses are therefore not a substitute for obtaining your own legal advice and does not imply that other regulatory obligations would not be applicable to certain activities

Events

Question: Is there a location we can find scheduled Defence Export Control sessions and register from vs in email notifications?

Response: Yes. You can always track and register for upcoming events via the Defence Export Controls website at: [Outreach and training | Business & Industry | Defence](#).

The DEC Bulletin emails act as an event reminder and flags future sessions that are/will become available on the website. If you would like to subscribe to the DEC Bulletin, email dec.outreach@defence.gov.au

Please find the direct link to [register](#) for the Technical Session on 25 June 2025.

Record Keeping

Question: Are email records/Purchase Orders etc. acceptable methods for record keeping with regards to supply of “DSGL technology” under AUKUS and the “build-to-print” exemption?

Response: You can find information on record keeping at: [Defence Export Controls: Compliance and reporting obligations | Defence](#)

Best Practice and Support

Question: With the new controls, the new considerations slide did not address circumstances where the technology is on the excluded DSGL goods and technology list. Before we look at citizenship or other possible exemption options we need to know this first don't we?

Response: Yes, as per slide 8 - Compliance Obligations and Reporting, the first step is to understand:

Identify if you require a permit. Go to the Self-Help Tool in the MADE portal to understand if you need a permit and which type of permit to complete.

Check if you qualify for an exemption. There are guidance and training materials explaining the exemptions at: [Outreach and training | Business & Industry | Defence](#)

If your goods are on the ETL, they do not qualify under AUKUS and you would require a permit.

Question: “We cannot provide legal advice and you alone are responsible for meeting your legal obligations.” Does DEC offer anything similar to the ATO’s binding private rulings?

Response: DEC do not provide this service, but do provide definitive guidance in the form of:

- In Principle Assessments: to determine whether a permit is likely to be issued in given circumstances (note: must begin a permit application to access this assessment).
- DSGL Activity Assessment: to determine whether goods, software or technology are controlled under the Defence and Strategic Goods List (DSGL), or a particular activity is controlled under Australia’s export controls legislative framework.

We also host information and education tools (online e-learning modules and Self-Assessment tools) to help exporters make informed decisions.

AUKUS licence free environment

Question: How does the AUKUS licence free environment apply to the Aerospace environment?

Response: To understand the AUKUS Licence Free Environment and how to enrol as an AUKUS authorised user at: [Licence-free environment | Defence](#) or listen to the [deep dive presentation](#).

Technical and Circumstantial

Question: Regarding the AUKUS licence free environment – It seems the US Bureau of Industry and Security is not 100% reciprocal to all DSGL items. For example. 3A901.b, 3D901 for items specified in 3A901.b and 3E901 for items specified in 3A901.b all need a Licence to Export to Australia. Please advise whether the arrangement is like for like or is this is limited only to certain DSGL dual-use items.

Response: The *Defence and Strategic Goods List 2024* (DSGL) lists the goods, technology and software that DEC regulates under Australian export control laws. The classification numbers of the goods on this list are referred to as DSGL classifications or DSGL codes, we do not refer to them as Export Control Classification Numbers (ECCNs), which are from the Bureau of Industry Security in the US. With this in mind, there is no list that specifies the DSGL codes eligible for export under the licence-free environment (LFE). Instead, there are two exclusion lists which you reference that exclude goods from export under the LFE.

In regards to the specific goods you have listed, DEC encourages you to review the DSGL and two exclusion lists to determine if they are eligible for export under the LFE. If you remain unsure of this after reviewing the relevant resources, please submit an application to “Export or Supply Controlled

Goods and Technology". The team will determine early on in the assessment process whether the goods are eligible.

While there has been a great deal of work done to ensure that our export control framework aligns with our AUKUS partners, they are not identical. We encourage you to refer to Australian export control laws when exporting from Australia.

Question: If you receive (by chance) an e-mail containing regulated technology during a brief overseas trip, is that regulated under export controls? It is assumed that the country that is specified in the fulfilment of the contract is Australia (and not the place of the overseas trip).

Response: Export control obligations are relevant to the supplier, not the receiver of the DSGL controlled goods or technology. If you suspect a breach, DEC recommends Voluntary Disclosure to report the incident, go to: [Voluntary disclosure | Business & Industry | Defence](#)

Question: Do we require Section 10As where we're sharing e.g. US-origin technical data back to the original OEM when they visit Australia? Noting the technology would fall under the ETL therefore no exemptions or exceptions are available. Previous DEC guidance stated no, but we've since received conflicting information. This is in cases where we've originally received the technical data under a US licence (e.g. TAA or other).

Response: Whether or not the technology is already separately subject to US controls requirements does not affect the application of Australian export controls law. If the activity involves supplying DSGL technology to a foreign person located in Australia and no relevant exemptions or exceptions apply, a permit is generally required.

Question: Does Offence 10B only consider Aus-origin technology? Or does it also consider foreign military technology? Reason for asking is that US regulations don't control non-US technology once it leaves the US. Wondering if 'pass-throughs' of ITAR/EAR, without incorporation of Aus-origin tech, will fall under 10B after export.

Response: The section 10B offence does not have regard to the country of origin of the relevant DSGL goods or technology. In order for the section 10B offence to apply, the offshore supply in question must satisfy all the elements of the s 10B offence, including the requirement that the supplier obtained the DSGL goods or technology as a direct or indirect result of the earlier export or supply of that DSGL goods or technology out of Australia.

Question: Please go into more detail about 10B from a foreign company perspective.

Response: To understand more about Section 10B, go to: [Defence Export Controls: Section 10B – offshore re-supplies | Defence](#).

Foreign entities/persons can apply for a 10B permit through the MADE Portal by completing an application for *10B: Supply DSGL Goods and Technology from outside Australia*.

Question: The business I work for recently underwent a Blue Lantern Audit by the US DoS. Are you anticipating DEC will conduct a similar program?

Response: The Regulatory Compliance team is currently establishing a proactive audit function.

Question: What is Defence Export Controls Position on Cloud and Cloud providing servers and obtaining permits for setting up service arrangement for Australian Controlled material?

Response: Cloud computing is complex and the structures and set-up can vary greatly, making the answer circumstantial. Apply the same logic as required for any supply.

Question: What is the position for multi-nationals, i.e., Australian × other citizenship(s), & specifically on nation precedence with respect to critical technology with MEU & where DEC has indicated it may seek to claim sovereign & “catch-all” ownership?

Response: Any Australian citizen or permanent resident is considered an ‘Australian person’, regardless of other citizenships held or if they live in another country.

Any individual, entity or organisation that does not meet the definition of an ‘Australian person’ is considered a ‘foreign person’. Citizenship, permanent residency, or country of incorporation is also used to determine what country a foreign person is considered to be from (e.g. AUKUS, Five Eyes, FCL).

Note: These definitions are specific to Australia’s export control laws. Other restrictions / sanctions / definitions may be relevant depending on individual circumstances under other regulatory frameworks.

Seek more information [Defence Export Controls: Fundamental research and foreign nationals | Defence](#)

Australia does have certain ‘catch-all controls’ which provide the Minister with the discretionary power to prohibit certain exports of uncontrolled goods if they suspect that the goods may be for a military end-use which would prejudice Australia’s security, defence or international relations.

Question: DEC has advised that “if at any time you have reason to believe or suspect that the item(s) listed above will or may be used in a weapons of mass destruction program (WMD), you must advise DEC immediately & not proceed with the activity”. Yet, what if the tech is a hybrid, such that it also provides a countermeasure against WMD use, i.e., a case of ‘the poison is the antidote’, & without which WMD use by bad actors is possible, likely. All said another way, a tricky tech space with good & bad actors & sitting still, stopping R&D & foreign cooperation is not recommended for national security.

Response: Complete an Export Control Assessment via the MADE portal at: [My Australian Defence Exports portal | Business & Industry | Defence](#). DEC will assess if there are any WMD concerns related to your activity.