



Defence Export Controls **Record Keeping**

Accurate record keeping is fundamental to Australia's defence export controls legislative framework and serves as a vital part of an export controls compliance program. Well-established record keeping practices can significantly reduce the risk of an export controls breach.

Key Requirements

Exporters and suppliers are required to keep certain records of all activities that occur under a permit, as well as activities that occur under an exemption or exception. The records that are required to be retained will depend on the type of activity conducted, and whether the activity is occurring under a permit or under an exemption/exception. **The specific requirements are listed below.** There is no required format for keeping records, as long as the appropriate information is recorded.

- ✓ Records must be retained for five years from the date of supply and may be requested by Defence. These records must be retained in accordance with section 58 of the *Defence Trade Controls Act 2012* (DTC Act).
- ✓ For activities that occur under a DTC Act permit, records generally need to include:
 - ✓ a description of the Defence Strategic Goods List (DSGL) item supplied, or DSGL services provided;
 - ✓ the relevant permit number;
 - ✓ recipient names; and
 - ✓ transaction dates.
- ✓ Defence can request a copy or production of records for inspection, and retain records under sections 58-61 of the DTC Act.
- ✓ Failure to retain, or produce records upon request (as required under the DTC Act) may be an offence.
- ✓ All exporters lodging an Export Declaration must retain commercial documentation for five years as per the *Customs Act 1901*.

We note that additional obligations may arise depending on the type of activity (e.g. ITAR controlled items).



Best Practices for Record Keeping

Implement a **well-structured record-keeping system** along with detailed process maps to identify critical points that could cause issues.

For **multi shipment permits**, record and **track the number of items exported or supplied** each time, managing the quantity against the approved permit quantity.

Utilise Defence Export Controls' resources via the MADE portal.

Ensure that **Export Declaration Numbers (EDN)** and **DEC permit numbers** are recorded against your activities, even when conducted through a shipping agent.



Record keeping requirements vary depending on the type of activity, and whether or not it is occurring under a permit or an exemption /exception.

Record keeping under the DTC Act applies to:

- ✓ **all permit holders** where records of permit related activities (including brokering) need to be kept for a minimum period of five years
- ✓ **other activities** where records of supplies of DSGL goods or technology, or provision of DSGL services, that occur without a permit (e.g. where an exemption/exception applies – like the AUKUS licence-free exemption) need to be kept
- ✓ **approval holders** who are Approved Australian Community members for the purposes of the Australia-US Defence Trade Cooperation Treaty



Records are important in showing an audit trail of each activity that occurs under a permit, or under an exemption/exception. The DTC Act and Defence Trade Controls Regulation 2013 does not prescribe the form the records must take but rather the information the records must include. Please see the below list as a general guide to various record keeping obligations:



Permit Holders

Persons who hold a permit under section 11 of the DTC Act must maintain certain records listed in the below table.



Activities under an exemption/exception

Persons undertaking an activity covered by an exemption/exception under the DTC Act, must maintain certain records listed in the below table.

Additionally, pre-notification requirements apply when using the AUKUS exemption (i.e. licence-free environment) to conduct an export under reg 13E of the *Customs (Prohibited Exports) Regulations 1958*, or a supply under s 10 of the DTC Act.



Brokers

Persons who hold a permit under section 16 of the DTC Act for brokering must maintain certain records, including:

Description of the DSGL goods or technology

Unique identifier given to the permit under which the registered broker arranged a supply

Name of any person the registered broker arranges to supply DSGL goods or technology

Date any arrangement under the permit is made

Name of any person that registered broker arranges will be supplied DSGL goods or technology under the permit, and place at which the DSGL goods or technology are to be received by that person

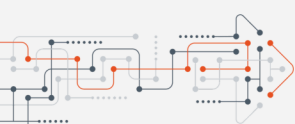
For brokering, the place in which the DSGL goods, technology and services were supplied from are also required

Overview of Record Keeping Requirements

Records must be kept for activities conducted under a permit issued under section 11 of the DTC Act, as well as activities conducted under any DTC Act exemption/exception. These record keeping requirements are set out below:

| Information you will need to retain in records for... | Activities covered by a permit | Activities conducted under an exemption/exception |
|---|--------------------------------|---|
| Description of DSGL goods, technology, or services provided | Keep Record | Keep Record |
| Name of person(s) to whom the DSGL goods or technology were supplied, or services provided | 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: Additional obligations may arise depending on the type of activity, items or permit conditions (e.g. ITAR controlled items, pre-notification requirements etc).



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