



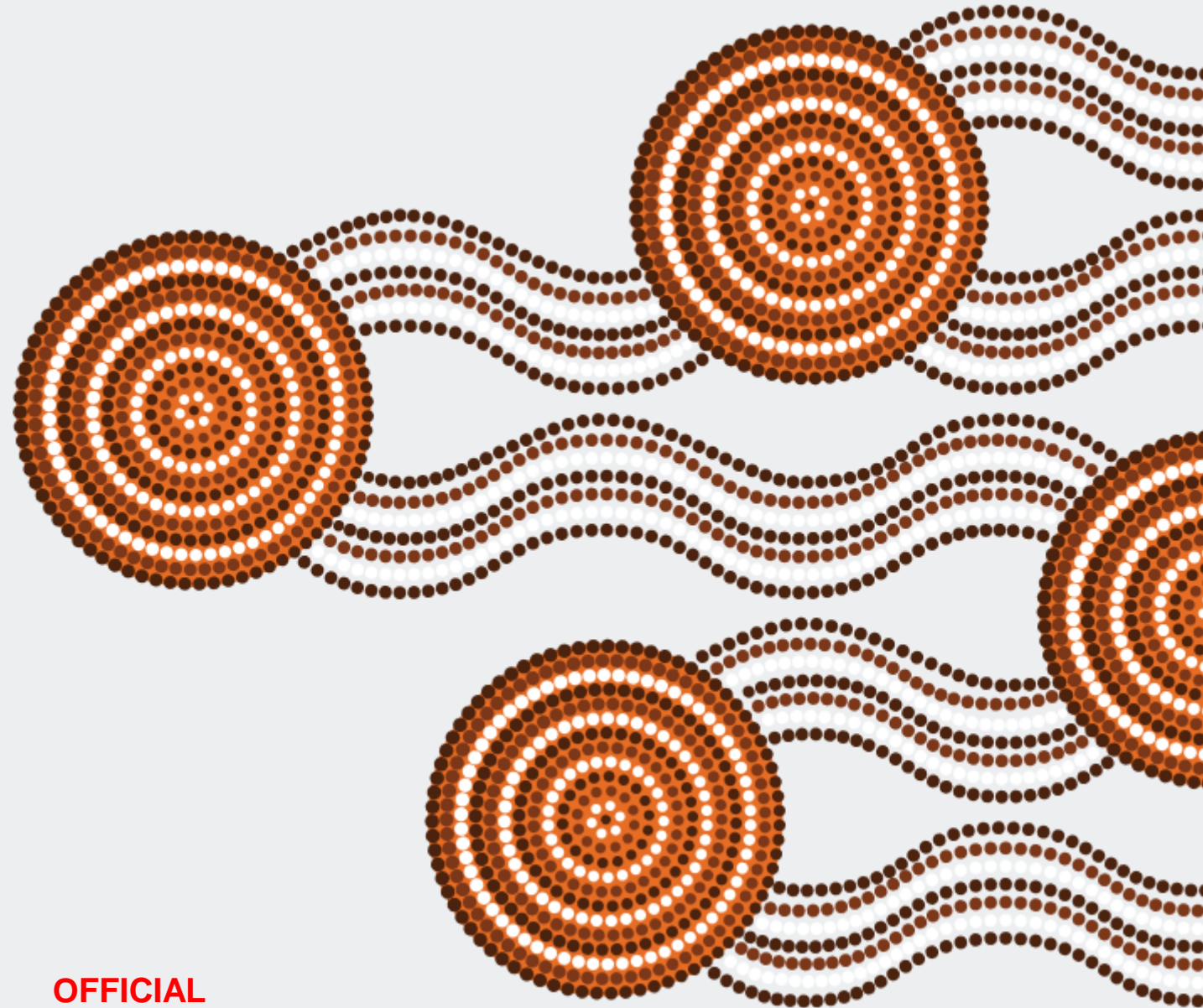
DEFENCE EXPORT CONTROLS

Safeguarding Australia's Military Secrets (SAMS)

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.



OFFICIAL

Overview

- What is SAMS?
- What is the SAMS legislation?
- Who falls under the SAMS legislation and who needs a Foreign Work Authorisation?
- Conclusion and key information



Why was the SAMS legislation created?

- SAMS was created, in part, in response to an ex-US Fighter Pilot who emigrated to Australia and trained Chinese military pilots through an academy based in South Africa.

Former US pilot held in Australia accused of breaking US arms controls by training Chinese pilots

Indictment says Daniel Duggan provided military training to the pilots through a 'test flying academy' in South Africa between 2010-12



❏ Daniel Duggan's lawyer says the former US Marine Corps aviator and Australian citizen denies breaching any law and resolutely maintains his innocence. Photograph: Jimmy Emms

Australian pilot Daniel Duggan - a former US Marine Corps aviator - has been accused of breaking American arms control laws by training Chinese fighter pilots to land on aircraft carriers, according to an indictment now unsealed by a US court.

The indictment said the naturalised Australian "provided military training to (PRC) People's Republic of China pilots" through a "test flying academy" in South Africa between 2010 and 2012.

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Safeguarding Australia's Military Secrets program enters into force

6 May 2024

Comments

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The Safeguarding Australia's Military Secrets (SAMS) program entered into force on 6 May 2024.

The program requires all former members of the Australian Defence Force (ADF), Australian Public Service employed with Defence, and Australian Submarine Agency personnel who wish to work for a foreign military or foreign government body to apply for a foreign work authorisation.

SAMS also covers Australian citizens and permanent residents who wish to provide training in military tactics, techniques and procedures or on goods covered by Part 1 of the Defence and Strategic Goods List to apply for an authorisation.

Individuals who require a foreign work authorisation are required to submit their request by 7 August 2024, in line with the commencement of offence provisions in the legislation.

Once a request has been submitted, an individual can continue to perform that work until the

Australian Army reservist faces court after allegedly working for Ukraine military without authorisation

Defence Forces

Tue 7 Apr



A South Australian army reservist was arrested after he allegedly working for Ukrainian military without authorisation. (Supplied: Australian Federal Police)



What is SAMS?

Defence Export Controls is the regulator for:

- the provision of sensitive defence-related information to foreign militaries and governments under the **SAMS legislation** - Amendment to Part IXAA to the Defence Act 1903; and
- the export, supply of and transfer of defence and dual-use goods, technology and services under Australia's Defence Trade Controls legislation.

Safeguarding Australia's Military Secrets (SAMS)

- legislation focused on potential transference of critical strategic and military knowledge that may harm Australia's national interest.
- provides confidence to government and Five Eyes partner countries that our sensitive tactics, techniques and procedures are not being leveraged by hostile nations or entities against us.



Foreign Work Authorisations (FWA)

Through FWAs, DEC regulates sensitive Military Techniques, Tactics and Procedures (MTTPs), dual-use goods, and Defence and Strategic Goods List (DSGL) technology, and in some circumstances prohibits, activities that could prejudice Australia's defence or security.

Potential work roles that may require an FWA:

- **Training & advisory activities:** specialist training or consultancy for foreign military/government clients
- **Embedded roles, secondments and visitors:** staff or students embedded in or supporting foreign defence institutions
- **Sponsored and collaborative research activities:** research or funding with defence or security end-use implications.
- **Remote and virtual support:** virtual mentoring or technical assistance enabling foreign defence capability



Work restricted individuals

Work restricted individuals are defined in the SAMS Act as:

- Individuals who are not currently serving in the permanent military forces; and
- Individuals who fall within a defined job family carrying a 1-, 5-, or 10-year restriction period.

Job families and the restriction periods they carry, are defined in legislation and can be found on the SAMS website.



SAMS applicability and what does it enable?

Applies to all Australian citizens or permanent residents, including former ADF members, Defence APS, and Australian Submarine Agency employees.

Division 2 : Work (Includes Training)

- Former Australia Defence Force members
- Former Department of Defence Australian Public Servants
- Former Australian Submarine Agency APS

Division 3 : Training

- Australian Citizens
- Permanent Residents



Should I apply for a Foreign Work Authorisation?

1. Providing military/defence related knowledge or work to an overseas company, university, government or military
2. Providing training on DSGL part 1 listed subjects, to a foreign company, government, university or military organisation
3. Australian Citizen or permanent resident who wants to deliver training DSGL Part 1 listed subjects. Is that overseas entity **not** part of Australia's Five Eyes alliance? Is the work **not** for a humanitarian organisation or on behalf of the Australian Government?

Please note: SAMS may still assess you as not requiring an FWA. The above advice is a strong indicator that you may need an FWA, but not definitive. Your job family may be determined to be out of scope or you may qualify for an exemption.



Legislation exceptions

Five-Eyes Nations

Section 115 (3) SAMS Act 2024

- Canada
- New Zealand
- United Kingdom
- United States of America

Current ADF and APS employees

Section 114 (1) SAMS Act 2024

Situational Exceptions

- Employed by the Commonwealth
- Requested work/training is authorised by a Commonwealth written agreement
- Service in a national Defence force (**not training**)
- UN / UN Agencies / Red Cross



How to apply for an FWA

- Applications have ~60 days turn around
- Outstanding Requests For Information (RFIs) may delay the processing of your application
- If you are currently a serving member of the ADF, you are required to submit a Conflict of Interest (COI) declaration as part of your FWA¹

To apply for an FWA, create a user account with your digital MyID to access the My Australian Defence Exports (MADE) portal via ServiceConnect or direct login².



1. Defence Integrity website: <https://dpeintranet-gov.defence.gov.au/services-guidance/working-integrity/conflicts-interest>

2. Defence Exporting website: <https://www.defence.gov.au/business-industry/exporting/safeguarding-australias-military-secrets/foreign-work-authorisation-requests>



Foreign Work Authorisation – scenario 1

John left the ADF in April 2023. He previously served as an information warfare officer in the RAAF and now intends to work for the US-owned international consulting firm IPG. His proposed role involves training soldiers in the United Arab Emirates (UAE) in counter-information warfare tactics.

Foreign Work Authorisation – scenario 2

Sarah is an Australian university professor specialising in Information and Encryption Technology. She has been invited by a French university to deliver a series of lectures presenting research findings on hostile military encryption techniques and to provide associated training. The host university has specified that the material will be unclassified. Sarah has never served in Defence and has never held a security clearance.



Key information

- ✓ Individual responsibility, not company
- ✓ Applies to onshore and offshore roles
- ✓ Role specific
- ✓ Can be updated after it has been granted (i.e. add new beneficiary)
- ✓ Valid for maximum of 3 years
- ✓ No cost
- ✓ Individuals can hold multiple authorisation if required
- ✓ 20 years imprisonment if breached



Where to get help and assistance

Website: www.defence.gov.au/business-industry/exporting

MADE AI: AI Knowledge Assistant self help tool

Webinars: Register for our free bi-monthly webinars & access presentations from past events.

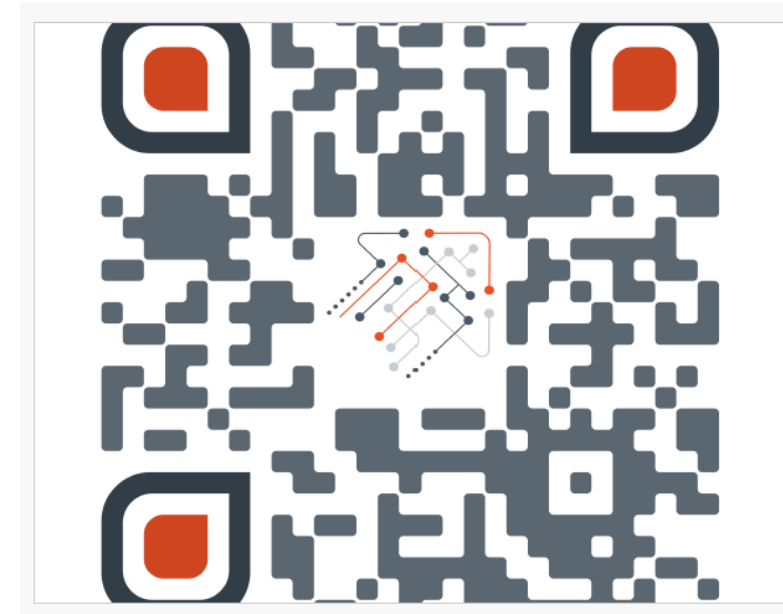
DEC Bulletin: receive our monthly newsletter to stay informed (opt in via dec.outreach@defence.gov.au)

eLearning: Defence Export Controls Foundations module

Enquiries:

Phone: 1800 DEFENCE (1800 333 362)

Email: exportcontrols@defence.gov.au





Questions and discussion