



# SAFEGUARDING AUSTRALIA'S MILITARY SECRETS

## Key Information

- The Safeguarding Australia's Military Secrets (SAMS) legislation protects sensitive military information and limits who can work for foreign governments, militaries, or companies without approval.
- 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.
- Former ADF members, Defence APS and Australian Submarine Agency personnel, along with Australian citizens and permanent residents, may be subject to obligations under the legislation.
- Offences under the legislation may carry a maximum penalty of up to 20 years imprisonment.

### How it works and who it applies to

The SAMS legislation requires some Australians and permanent residents to assess whether they need foreign work authorisation when working for, or providing training to, a foreign military or government body. This requirement can apply whether the work is done directly, through another organisation, or as a contractor.

Under Part IXAA of the Defence Act 1903, the following individuals must assess whether they require foreign work authorisation and, if required, submit a request:

- 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.

Individuals are encouraged to review advice provided on the Defence Export Controls website to determine if they will need a Foreign Work Authorisation.

### Are there any exceptions?

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 non-relevant foreign countries (New Zealand, United Kingdom, the United States and Canada)
- 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.

### Penalties

Criminal offences apply to individuals who are found guilty of breaching the SAMS legislation, with a maximum penalty of up to 20 years imprisonment.