



SAMS Webinar: Navigating Foreign Work Authorisations Q&A

10 June 2026

These responses are provided for general informational purposes only to assist in understanding Defence Export Control's regulatory framework. They do not constitute legal advice and should not be relied upon as such.

The information may include generalised descriptions of legislative provisions. Part IXAA of the *Defence Act 1903* (Cth) and associated instruments contain exceptions, conditions and definitions that are not exhaustively described here. Defence does not guarantee the accuracy, currency or completeness of this material.

Individuals must consider their specific circumstances when determining how the law applies to them and should seek independent legal advice where appropriate. Compliance with other applicable laws and regulatory frameworks may also be required.

If you are uncertain whether your circumstances fall within scope of the legislation, you should:

1. Review the relevant provisions of Part IXAA of the Defence Act 1903 and associated legislative instruments;
2. Seek independent legal advice where appropriate; or
3. Submit an enquiry or application to Defence for assessment

Q. What about ASIO etc.?

A. ASIO is not part of the Australian Defence Organisation. Employment with ASIO does not, of itself, make an individual a foreign work restricted individual. However, individuals may still have obligations under Division 3 if they are Australian citizens providing training to non-Five Eyes entities, where the training meets the relevant statutory thresholds.

Q. Does a demonstration of military designed software internationally come under training/FWA?

A. If the applicant is demonstrating how military software works at high concept level and with no sensitive procedures or military tradecraft being specifically taught, this would not require a Foreign Work Authorisation (FWA) (tradeshows are a good example of this). If structured lessons, including learning materials detailing in depth software operations are required, this may be considered training and an FWA may be required.



Q. The scope of "work" under SAMS is far wider than the previous slide suggests for foreign work restricted individuals, which I think needs to be clarified. I get the intent, but the drafting captures many more activities.

A. The scope is quite wide. We rely on the legislative instrument which tells us which job roles are captured under the legislation. Refer to the jobs list. If you're not sure which category, put through an application and Defence can assess it.

Q. If I am a former defence staff member, but do not know which of the job families I fall into under the Defence (Non-foreign work restricted individual) Determination 2024, how can I determine this?

<https://www.legislation.gov.au/F2024L00519/latest/text> Here, it would be that the relevant Defence APS Job Family / Function doesn't appear. For example, an ex-APS Export Control Officer doesn't appear to be captured.

A. You may also be able to contact 1800 Defence and request to know your applicable job family/families whilst at Defence. If you are unsure if you fall within scope, you can contact us or submit an application.

Being in the Army you do have an ECN number. If you're unsure if you fall into a category, submit an application. Please note that submitting an application does not determine whether a legal obligation exists, it allows Defence to assess and advise on your specific circumstances. If you have current PMKeyS access you can find your job family details.

Q. What about students who are not PR or citizens doing training overseas and are enrolled in an Australian Uni?

A. The legislation only applies to Australian permanent residents or citizens. If you are on a visa, you may want to confirm if you are given permanent residency status as part of your visa.

Q. How can individuals assess whether they are working for a public enterprise of a foreign country? The definition of "public enterprise" under section 113 of Part IXAA of the Defence Act provides criteria, however this information is often very difficult, if not impossible, for the average person to obtain (e.g. "the directors (however described) of the company are accustomed or under an obligation (whether formal or informal) to act in accordance with the directions, instructions or wishes of the government of the foreign country or of part of the foreign country")

A. You can find guidance here on the definition of a public enterprise (points 21-29) - [ParlInfo - Defence Amendment \(Safeguarding Australia's Military Secrets\) Bill 2024](#) - The definition of public enterprise is intended to capture public enterprises that are directly or indirectly, formally or informally, controlled or influenced by foreign state actors, with interests that are harmful to Australia. It would be expected that individuals seeking to perform work, or provide training to, or on behalf of, a public enterprise of a foreign country would undertake their own due diligence regarding the extent of foreign government control or influence over that public enterprise. Where information is not reasonably available, applicants should document the steps taken to identify ownership or control, and provide this to Defence as part of their application.



Q. Is there any more information on what is meant by "interests harmful to Australia"? Is there any clear guidance on what is considered not-harmful and what is considered harmful? Is it a subjective case-by-case assessment?

A. The concept is intentionally broad and allows the Minister or delegate to consider national security, defence, foreign policy and strategic interests on a case-by-case basis.

Q. What about other international organisations?

A. International organisations are assessed based on their legal status, governance structure, and the jurisdiction(s) in which they operate, including but not limited to their headquarters location.

Q. What if a company is based in an exempt country but may have customers in other countries (e.g. a UK consultancy that may have customers in the EU)?

A. All beneficiaries are taken into account. Even if your employer is in a Five Eyes country, if non-Five Eyes beneficiaries are included in the FWA, you will still require an FWA.

Q. Do FWA apply to government secondments to foreign government agencies like NATO?

A. If the secondment is part of an Australian Government agreement, the request will be eligible to be excluded from requiring an FWA authorisation.

Q. Does this mean current reservists (full time continuous service or not) still need to apply for FWAs, and submit the COI at the same time?

A. A conflict of interest is only needed for members of the regular permanent forces who wish to undertake eligible work overseas while remaining in the regular permanent forces. Reserve members are not considered fulltime regular members and are not required to submit a COI. They may still need to submit an FWA however.

Q. Is there a published list of countries or organisations for which Foreign Work Authorisation requests will not be approved?

Having access to such information would help avoid submitting requests that are likely to be declined and would save time for both applicants and assessors.

A. Decisions are risk-based and consider a range of factors including the nature of the work, the applicant's background and the characteristics of the relevant country or entity.

Q. If the training is delivered online to the foreign country do you still need FWA? Or merely an export permit for DSSL technology.

A. Remote training will still need an FWA authorisation. SAMS is concerned with the transfer of knowledge, this may be in person or via computer. The legislation regulates the transfer of controlled knowledge regardless of the medium of delivery (whether in person or via electronic means).



Q. If I am purely transferring 'training' material to a 'military organisation, or government body', of a 'relevant foreign country' but not involved in contributing to the training material and I am not a foreign work restricted individual (FWRI) (e.g. a Data Manager, or customer liaison), do I require a FWA to transfer that material to the recipient?

A. There is no definition listed in the legislation for training however, we can provide the following guidance that may assist:

- Is the training on goods or software listed on the Defence and Strategic Goods List Part 1 or on military tactics, techniques or procedures?
- Will the training be beyond that which is found in a system manual, and will broaden the trainee's understanding of special operations beyond the tactical and operational skills and capabilities involved?
- Will the beneficiary, foreign government military, body or entity of the training be from a relevant Country?

If the answer is yes, or you are uncertain to any of the above questions, then we recommend you submit a Foreign Work Authorisation request. This will enable Defence to provide advice or a formal decision should it be required.

We request individuals to provide as much detail as possible and provide any examples of the training or work they will be completing. This will allow our assessment officers to provide an accurate outcome within a timely manner.

Accordingly, the term is interpreted in accordance with its ordinary meaning, informed by the context and purpose of the legislation.

Q. Upon discharge or resignation from a defence role, how are ex-defence staff notified of their requirements under SAMS?

A. It is part of your mandatory off-boarding process when undergoing the discharge process.

Q. Can defence please update the FWA application form? It currently doesn't accept many types of grammar.

A. DEC will continue to update the FWA form as required.

Q. The slides seem to be conflating the requirements under s.115A and 115B. Can you clarify for the audience that you (may) still need an FWA if you're a foreign work restricted individual and just performing 'work' (VERY widely defined) and that the requirement that you provide training in military TTPS, goods & technology only applies if you're merely an Australian citizen.

A. the Act is divided into two divisions. Applicants who are ex-Defence employees (ADF, APS or ASA) and would like to provide work or training to non-Five Eyes overseas beneficiaries, may come under Division 2.

Australian citizens who wish to provide training (not work) to non-Five Eyes beneficiaries may come under Division 3 of the act. The work or training being provided must relate to military techniques,



tactics and procedures, DSGP Part 1 technologies or dual use goods. If you are unsure if the work or training you are requesting to undertake fits this requirement, the assessment team will look at your application and let you know

Q. Will Defence narrow the scope of 'work' for foreign work restricted individuals (FWRI)? At the moment, if I am a FWRI and provide work for commercial (not military) products or if I am an IT support staff setting up a secure channel to transfer data, I am still required to apply for a FWA if such 'work' is for a 'military organisation, or government body', of a 'relevant foreign country'. This broad 'work' scope makes it extremely difficult to manage and does not seem to capture the intention of Defence under SAMS.

A. If it is deemed by the assessments team that the work you would be providing is not military in nature, you may be granted an exception as the work or training may be considered 'out of scope' of the Part IXAA of the Defence Act 1903 (the Act).

Q. [Scenario 2] If Sarah was delivering training in the US, would that be under FWA?

A. If Sarah was delivering training, only to the US and her employer was an Australian entity, she would be exempt as all countries and beneficiaries are Five Eyes nations.

Q. So unclassified information is now classed as national secrets?

A. Unclassified information is not automatically considered sensitive; however, in certain contexts it may contribute to a broader body of information that could pose national security risks.

Q. What about Permanent transferred to Reserves? When does the timer start?

A. The foreign work restriction period (1, 5 or 10 years) is related to the job family you held whilst a permanent member of Defence - the timer starts from the date you separated from permanent full time service. If you held two or more job families at the time of separation, the family with the longest work restriction would apply.

Q. Just curious what legislation is in play if a person is training citizens (of countries, not five eyes) here in Australia? Where delivery + receipt of training both occur on-shore?

A. an FWA may still be required if nationals from non-Five Eyes countries are being trained here in Australia. An application should still be submitted.

Q. When will the SAMS legislation be amended to align it with the DTCA, so defence company employees don't need an FWA if their employer has a DEC permit approving the activity at a corporate level?

A. As of now, there is no publicly confirmed date or committed timeline from the Australian Government for amending the Act to fully align with the newer *Defence Trade Controls Act 2012* (DTCA) framework changes.



Q. If I provide 'work' and/or 'training' to a non-relevant foreign country (i.e. 5EYES), and if that non-relevant 5EYES entity on-supplies the end-product/material to a 'military organisation, or government body', of a 'relevant foreign country', do I still require a FWA even if I don't know who they on-supply to unless an exception applies?

A. When you apply for an FWA you will be expected to supply all required knowledge to the best of your ability. If you are genuinely unaware of potential clients or countries that your employer is conducting work for, you will not be held accountable for this information gap. If you are aware, you will be expected to supply this information when you submit your application. Submitting an application does not determine whether a legal obligation exists, it merely allows Defence to assess and advise on the applicant's specific circumstances.

Q. Do you have an online option for a drop-in session?

A. Please email your enquiry through to dec.outreach@defence.gov.au

Q. So really in summary: it applies to any international work outside of 5 eyes that comes under the DSGL? This is a question

A. Any work/training that will be drawing on any techniques, tactics or procedures that may have a military use or relates to DSGL listed technologies. This may also include dual-use technologies. The work or training must involve non-Five-Eyes countries and/or beneficiaries in order to be considered in scope of the legislation.

Q. Would a reservist performing remote ADF reserve work in a non-5eye country be required to complete an FWA?

A. If the work is being conducted through the ADF Reserve, an exception would be applied due to the work being directly undertaken by a Commonwealth entity.

Q. If we are just training on how to use our brand of a DSGL Item - No Tactical Element ... do we still need permission? What if we have an Export Licence from SPIRE UK to sell the item to a foreign Country?

A. It is recommended that you still submit an FWA request. Even if you don't intend to transfer tactical procedural information, the assessment team can review the training to identify any other elements that may pose a risk.

Q. If Aus defence industry employees go overseas to work/train with a foreign parent Company on an Australian defence program in a non-five eyes country, are these Australian employees required to get an FWA?

A. They may require an FWA. As each individuals circumstances vary, we would recommend a request or enquiry be submitted.



Q. Can we receive a copy of these presentation slides?

A. Yes, this presentation along with the Q&A's will be submitted to the Past events section of the [Outreach and education](#) webpage in the coming weeks.

Q. Where the former Defence employee seeking foreign work was a Graduate and spent a short amount of time in a number of different work groups, where should the responsibility fall to ensure all aspects of the former employee's work is covered off? I've had to deal with this in the past and the Grad Management Office did not know how to grip it up a FWA. Is the SAMS team meant to coordinate an assessment and response?

A. the responsibility falls on the individual to ensure they are compliant with the legislation. In cases where there are multiple entities, beneficiaries and countries, it is recommended that applicants place all parties involved into the one application. There is no limit to the amount of parties that can be placed into an FWA request. Further information can be added in the initial application or during assessment to give context and dates to clarify periods of work/training that take place over multiple roles over a given period of time. The assessments team can be emailed through the group inbox if you have any questions during the assessments process.

Q. Medicines sans frontiers?

A. Depending on the work, roles with Medicines sans frontiers would most probably be classified as humanitarian in nature, and be exempt from the Act. It is recommended you submit an application and the assessments team will make sure your request is correctly categorised.

Q. Given the SAMS obligations relate to individuals not organisations, what obligations (if any) does an organisation have in relation to SAMS?

For example, if an organisation employs an ex-defence member and has them perform work for a foreign organisation which would otherwise require a FWA, though the organisation itself wouldn't be strictly required to have the individual obtain a FWA as this is the individual's responsibility, could that organisation otherwise be held liable for putting that individual in the position, for example under employment law?

A. While the onus is on the individual to ensure they are in compliance with the legislation, there are some areas that organisations need to be aware of. Organisations that are directing their employees to do work which requires an FWA may expose themselves to potential legal risk, including under employment, contractual or other applicable laws, depending on the circumstances if they have directed an employee to undertake unlawful work by breaching the Act. There is a reasonable expectation on organisations and employers to be aware of sanctions and controls frameworks and to ensure that their employees are provided clear guidance on their responsibilities. Failure to provide this may leave the employer open to legal action from an employee.

Q. Where are the defined job families carrying restrictions listed?

A. You will find the information here: [Defence \(Non-foreign work restricted individual\) Determination 2024 - Federal Register of Legislation](#)



Q. Where does Ukraine fit into all of this?

A. Participation in overseas conflicts may engage a range of Australian laws beyond the SAMS framework. Individuals should seek independent legal advice before undertaking such activities.

Q. I guess if you teaching TTP in a 5EYES class that contains foreign students you need a FWA? Such as foreign staff course?

A. Correct. If you know that there will be students from non-Five Eyes countries involved in potential training, you will need to list that individuals employing entity as a beneficiary on your FWA request, as that entity will be gaining that knowledge from you.

Q. Will the legislation take into account the recent changes to Defence, where the terms "Full time" and "Reserves" have been replaced by the terms: Service Category (SERCAT), and where there are now people working under SERCAT-2 through to SERCAT-7, etc.?

A. Current DEC policy takes into account SERCAT when determining if an individual is in scope of the Act.

Q. There are still restrictions applicable under the Defence Act (i.e. security clearance obligations)

A. Yes. These restrictions and conditions are detailed on the final outcome letter to the applicant.

Q. You wrote that UN organisations are exempt from FWA requests. Is that across the board? There are some instances where UN has not been able to stand-up against hostile forces in active conflicts. Wouldn't there be a risk that the hostile force would be able to get some information they shouldn't have access to?

A. All FWA applications carry a certain amount of risk. The assessments team will assess each request on a case by case basis to determine the potential risk involved with UN operations. While there are situations where UN forces may be in dangerous situations, conditions or mitigations may be able to be put in place to help in reducing any risks. Certain activities may fall within an exemption; however, where there is uncertainty, submitting an application allows Defence to confirm whether the exemption applies.

Q. What if I can't specify all the end beneficiaries if I don't know them all? I.e. my customer on-supplies the material elsewhere. I understand there is an 'unsure' option in the FWA form and I can put in the description that I don't know all the beneficiaries, and just list my known customer. Is that sufficient?

A. When submitting your FWA, you should include all known employers and beneficiaries associated with your intended work or training. If your employer has not identified all beneficiaries, you are only required to provide the information available to you at the time. If this information has not been provided to you by your employer, it is recommended you contact them to discuss who your work is benefiting.