



Defence Capability Framework

Defence Legislation Amendment (Accelerating Capability and Protecting Bases) Bill 2026

Understanding the Defence Capability Framework

The Defence Capability Framework provides a clear legal framework to support nationally significant Defence capability activities in Australia. It will help Defence work more effectively with Australian industry, universities and trusted international partners to research, develop, test, evaluate, manufacture, sustain and prepare Defence capabilities.

The Framework does not authorise military operations, intelligence collection or law enforcement activities. It does not create a general exemption from Australian law, impose obligations on members of the public or businesses, or remove environmental, heritage or native title protections. Activities conducted under the Framework are subject to statutory safeguards, Ministerial direction and independent oversight.

Why is reform needed?

The National Defence Strategy places significant emphasis on preparedness, accelerated capability development, sovereign industrial capability and maintaining technological advantage.

Defence increasingly operates in an environment characterised by rapid technological change, integrated industry participation, multinational capability programs and complex testing, training and evaluation requirements.

Activities that once occurred almost exclusively within Defence establishments are now routinely undertaken in partnership with industry, research institutions and trusted international partners – across multiple states and territories. Capability development now frequently involves advanced technologies, classified systems, specialised testing environments and sophisticated regulatory requirements.

This means that regulatory schemes established for civilian contexts are increasingly impacting on Defence capability development.

Defence requires a fit-for-purpose legislative framework capable of supporting these contemporary realities while preserving transparency, accountability and public confidence.

What is the Defence Capability Framework?

The Defence Capability Framework will provide a statutory foundation supporting Defence capability activities throughout the capability lifecycle.



It will support activities associated with capability development, testing, evaluation, experimentation, training, preparedness and capability sustainment. It recognises that modern capability development increasingly occurs through cooperation between Defence, industry, universities, research institutions and trusted international partners, and can support capability development activities conducted by or in partnership with these bodies.

Rather than relying on a collection of separate powers, authorities and administrative arrangements, the framework establishes clear and comprehensive legislative architecture through which important capability activities can be authorised and conducted.

It provides a transparent statutory framework that identifies what activities may occur, who may authorise them, who may undertake them, what safeguards apply and how those activities will be subject to oversight and review.

What does the Defence Capability Framework do?

The Defence Capability Framework provides for capability declarations, which may specify a defence capability activity, the officials authorised to undertake the activity, and how other regulatory schemes may apply to the activity. Conditions and limitations may also be applied, ensuring that defence capability activities will not occur in regulatory vacuums.

Capability declarations can only be made if statutory thresholds are met, including that any impact of an activity is proportionate to the underlying defence purpose. Additional requirements and safeguards apply for capability declarations involving electronic or cyber capabilities or personal information.

What activities can be authorised under the Defence Capability Framework?

The Framework can support Defence capability activities across the capability lifecycle, including research, design, development, testing, evaluation, manufacture, storage, transport, sustainment and disposal of capabilities. It can also support training and preparation activities involving Defence personnel and, where appropriate, trusted international partners.

What is the difference between defence capability activities and military operations?

The Framework supports activities that develop, test, evaluate, sustain and prepare Defence capabilities. It does not authorise military operations, police functions, intelligence gathering, the use or threat of force against people in Australia, or compulsory directions to members of the public.

How the Defence Capability Framework works

Who determines whether a defence capability activity can proceed?

Capability activities under the Framework are authorised through capability declarations. In most cases, capability declarations are made by the Minister for Defence in accordance with



legislative criteria. Some temporary declarations may be delegated to senior Defence officials, except for electronic capability declarations, which must be approved personally by the Minister.

Will capability declarations be public?

Standing capability declarations will be legislative instruments, so subject to tabling and disallowance in the Parliament. Temporary capability declarations, which can be in effect for up to 12 months only, will also generally be registered as legislative instruments. However, if the Minister is satisfied that publication of the declaration could prejudice Australia's defence or international relations, the Minister may determine that the declaration is not registered as a legislative instrument. In those cases, the declaration must be provided to the Inspector-General ADF, who will provide independent oversight.

Can a capability declaration override other laws?

The Framework does not create a general exemption from Australian law. However, a capability declaration may provide that specified Commonwealth, State or Territory laws apply differently, or that particular conduct does not contravene specified laws, where this is necessary to support an authorised Defence capability activity. Any such effect must be expressly identified in the declaration.

Commonwealth laws can only be affected where Parliament has expressly provided for that outcome in the law in question. The Bill includes amendments to the *Navigation Act 2012* and the *Marine Safety (Domestic Commercial Vessel) National Law Act 2012*, ensuring capability declarations can support activities involving autonomous vessels. It also includes amendments to the *Telecommunications (Interception and Access) Act 1979* and the *Criminal Code Act 1995*, allowing for electronic capability declarations that support activities involving electronic and cyber capabilities.

Can the Framework be used in an emergency or crisis?

Yes. Temporary capability declarations can be used where Defence capability activities need to be authorised urgently, for example to transport equipment or personnel to prepare for an ADF operation. These declarations remain subject to legislative requirements, safeguards and oversight arrangements, and cannot remain in force for more than 12 months.

Privacy and information safeguards

Can the Defence Capability Framework allow Defence to access personal information?

Capability declarations may provide for activities involving the collection, use or disclosure of personal information. Additional safeguards apply for any activities involving personal information. For example, these activities can only be declared if ministerial rules are in place addressing how personal information is to be dealt with. A criminal offence applies for



unauthorised use or disclosure of personal information collected under a capability declaration.

Personal information collected under an electronic capability declaration is subject to even stricter controls. Electronic capability declarations allow for capability activities that would otherwise contravene interception or computer offences. They are only permitted if the Attorney-General has made rules relating to them. Use and disclosure of information collected under an electronic capability declaration is subject to the offences for dealing with information under the *Telecommunications (Interception and Access) Act 1979*, equivalent to offences applying for information collected under a testing authorisation in that Act. This information is also subject to strict destruction and reporting requirements.

Can a capability declaration allow Defence to collect intelligence or monitor Australians?

The Defence Capability Framework does not create new intelligence-gathering or surveillance powers. It cannot be used to authorise Defence to monitor Australians or conduct intelligence collection activities. The framework is limited to supporting Defence capability activities and is subject to strict safeguards and oversight arrangements, including penalties for using information collected in a capability activity for other purposes.

Does the Defence Capability Framework regulate artificial intelligence?

No. The Framework does not regulate artificial intelligence. It provides a mechanism to support Defence capability activities involving emerging technologies, including artificial intelligence.

Innovation and advanced technologies

What is the impact on innovation and advanced technologies?

Australia's defence will increasingly depend on emerging technologies and the ability to move more rapidly from concept to capability.

Defence's future capability requirements are expected to involve technologies such as artificial intelligence, cyber capabilities, autonomous and uncrewed systems, advanced sensing technologies, electronic warfare systems, advanced manufacturing techniques and space-related capabilities.

These technologies may require extensive experimentation, testing and evaluation before they can be safely and effectively integrated into Defence capability programs or ADF operations.

Legislation should support innovation and preparedness rather than becoming an unintended barrier to capability development. The Defence Capability Framework will support these activities, adapting as technology evolves.



Industry and research collaboration

How does the Framework support defence capability partnerships and sovereign industrial capability?

A significant feature of modern capability development is the increasingly important role played by organisations beyond Defence. The National Defence Strategy identifies sovereign industrial capability as an important national priority.

Australian industry now contributes across the capability lifecycle, from research and development through to systems integration, testing, training, sustainment and upgrades. Universities and research institutions contribute specialist expertise and emerging technologies.

Collaboration between Defence and industry will remain a defining feature of future capability development. The Defence Capability Framework will support Defence's ability to work in Australia, and with Australian businesses, to develop, test, protect and sustain capability.

Will businesses need new approval or to comply with new requirements?

No. The Framework is designed to support Defence capability activities rather than create a new regulatory regime for businesses. It does not impose new general approval, licensing or compliance requirements on Australian businesses.

Can businesses conduct activities on Defence's behalf?

Yes. The Framework recognises the important role of Australian industry in delivering Defence capability. Capability declarations can apply to authorised contractors and other approved participants supporting Defence capability activities.

How does the Framework support collaboration with universities and research institutions?

Capability declarations can apply to authorised personnel from universities and research institutions who are collaborating with Defence.

Working with trusted international partners

Can Defence capability activities involve international partners?

The Framework can support Defence capability activities involving trusted international partners where this contributes to Australian Defence capability. Participation by foreign personnel is limited to authorised capability activities and does not provide a general exemption from Australian law or accountability requirements.



Does the Framework give foreign countries new powers in Australia?

No. The Framework supports collaboration on Defence capability activities with trusted international partners, but it does not give foreign governments or foreign organisations independent powers under Australian law. Any participation by international partners must occur under Australian law and within the scope of a capability declaration, which must be made by the Minister for Defence or a senior defence official..

Impact on communities

Does the Framework support defence capability activities on private land?

The Framework does not give Defence any power to acquire, occupy or use private land. While defence capability activities may occur on private land, this would only be with the agreement of the landholder or where otherwise authorised by law.

Could local communities be affected?

Some capability activities may occur in locations across Australia, including at Defence, industry and research facilities. Before a capability declaration is made, the Minister must be satisfied that any impact on people in Australia will be reasonable and proportionate, and that appropriate safeguards are in place. Defence consults with local communities before undertaking any activities that are likely to have a significant impact.

Is there any impact on environmental, heritage or native title protections?

No. The Framework does not have any impact on Commonwealth environmental, cultural heritage or native title protections. Capability activities remain subject to applicable legal protections in Commonwealth laws unless the Parliament has expressly provided otherwise.

Oversight and accountability

What safeguards apply?

The Bill includes a range of safeguards, and activities conducted under the Defence Capability Framework are subject to governance arrangements, reporting obligations, review processes and independent oversight.

Rules and conditions can apply, including requiring that particular stakeholders are consulted before an activity is declared, ensuring that any impacts of Defence capability activities are minimised and that they do not occur in a regulatory vacuum.

Capability declarations are generally legislative instruments, and subject to parliamentary scrutiny and disallowance. If a capability declaration is not registered as a legislative instrument, it must be provided to the Inspector-General ADF, who provides an independent oversight function.



The Bill expands the functions of the Inspector-General ADF to include independent oversight and review of the Defence Capability Framework, including legality and propriety of conduct under the framework, and the effectiveness of procedures established by Defence to implement the framework.

What happens if Defence acts improperly?

The Framework includes statutory safeguards, conditions, offences, civil penalties and independent oversight arrangements.

The Inspector-General ADF can investigate compliance with the framework, review the legality and propriety of activities, and make findings and recommendations about its operation, including making reports to the Parliament.

Individuals who breach conditions or disclose personal information without authority are subject to penalties, including serious offences where breaches of conditions results in serious harm.