



**Australian Government**

**Department of Defence**

Defence Export Control Office

**Do you work with dual-use or military end-use goods; nuclear material; dangerous chemicals, micro-organisms or toxins; high-end electronics and computers; telecommunications and information security technology; sensors and lasers; marine and aircraft navigation and avionics; underwater vehicles and UAVs; or aerospace and propulsion equipment?**

**Then this may apply to you.**

### **Strengthened Export Controls**

New export control measures will come into force in May 2015. The amendment to the *Defence Trade Controls Act 2012* (DTC Act) introduces new strengthened export controls to regulate the:

- intangible supply;
- brokering; and
- publication of controlled goods and technology.

Permits are not currently required for these activities, but will be required when the new export control measures come into force. You need to be prepared for these new permit requirements.

### **Australia's current export control system**

Australia's export controls support international efforts to stem the proliferation of conventional, chemical, biological, and nuclear weapons. As a member of international counter proliferation regimes, Australia has an obligation to regulate the export of items which have military or weapons of mass destruction applications.

The Defence Export Control Office (DECO) is responsible to the Minister for Defence for regulating the export of military and dual-use goods.

### **Why do we need new legislation?**

Australia already regulates the physical export of military and dual-use items, but improvements in technology have created loopholes in global export legislations.

For example:

- If an Australian organisation physically exports a controlled military item, a licence is required under the Customs Act. However, if they email instructions on how to produce or enhance that item, no licence is currently required. The Australian Government has no visibility or control over the electronic export of this information, including whether it is potentially destined for a military end-use of concern.
- If an Australian or a person in Australia were to arrange for weapons to be sent from one destination outside Australia to another destination outside Australia, no brokering permit is currently required. The Australian Government has no visibility or control over this brokering activity, including whether it is potentially destined for use in human rights abuses.

By introducing controls on intangible supply and brokering, the DTC Act aligns Australia with international best practice.

### **What is Intangible Supply?**

Intangible supply is when a person in Australia provides controlled technology in a non-physical form (i.e. electronically) to another person outside Australia. Some examples include supply via email, fax or providing a password access to electronic files.

A permit will be required to intangibly supply controlled goods or technology. The focus of intangible controls is on supply activities which cross Australian borders. Activities occurring completely inside or outside Australia are not controlled.

### **What is Brokering?**

Brokering occurs when a person, acting as an agent or intermediary, arranges the transfer of controlled items between two or more persons located outside Australia, and receives a benefit. Benefits include money or non-cash payments for the brokering activity, or if the brokering activity advances their political, religious or ideological cause.

A permit will be required to broker controlled goods and technology. These controls apply to anyone located in Australia, or an Australian citizen or permanent resident located outside Australia.

Activities such as intra-company transfers, freight forwarding, providing financial services, insurance, reinsurance, promotion or advertising are not intended to be captured under the Act's brokering controls.

### **Publishing**

Publication in the Act includes publishing on the internet, to the public or to a section of the public. Once controlled military technology is published in the public domain, it is no longer possible to regulate who has access to it. Publishing controlled military technology can put sensitive and potentially dangerous information into the wrong hands, with limited prospect of regulating that information.

A permit will be required to put controlled military technology in the public domain.

Any person undertaking this activity in Australia as well as 'Australian citizen' or 'resident of Australia' located overseas may need to seek a permit from DECO.

### **Where can I find out more?**

Further information on Australia's export controls and training material is available on DECO's website: [www.defence.gov.au/DECO/](http://www.defence.gov.au/DECO/)