

# Defence Export Controls Policy

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## INTRODUCTION

The University attaches a high priority to understanding and complying with all Australian export controls and export laws. The [Defence Trade Controls Act 2012](#) is the legislative basis to regulate the intangible, or non-physical, supply and publication of DSGL technology as well as the export and brokering of DSGL goods and technologies. The [Customs Act 1901](#) regulates among other things trade in tangible DSGL military, defence and strategic goods, information and technology.

The University will ensure that staff members, research students, or anyone who conducts research under the auspices of the University is aware of their obligations in accordance with the relevant legislation and as amended from time to time, and will comply with export controls.

## STATEMENT OF AUTHORITY

The authority behind this policy is the [Charles Darwin University Act 2003](#) part 3, section 15.

## COMPLIANCE

This is a compliance requirement under the [Defence Trade Controls Act 2012](#) and [Customs Act 1901](#).

## INTENT

This Policy outlines the University's institutional oversight of obligations in respect of the [Defence Trade Controls Act 2012](#) and [Customs Act 1901](#).

## RELEVANT DEFINITIONS

In the context of this document

**Brokering** means where a person or organisation acts as an agent or intermediary in arranging the 'supply' of Defence and Strategic Goods List goods, software and technology between two (2) places located outside of Australia;

**Defence Export Control Office** means the Australian Government Department of Defence, Defence Export Control Office;

**Defence and Strategic Goods List (DSGL)** means the list of defence and Dual-Use goods, software and technologies that are subject to regulation when exported, supplied, brokered or published. The Defence and Strategic Goods List comprises of two (2) parts:

- Part 1 captures military equipment, and related equipment and technology; and
- Part 2 covers Dual-Use Goods and Technologies developed for commercial purposes that may be used as part of a military program or in weapons of mass destruction.

**Dual-Use Goods and Technologies** means the items listed in Part 2 of the Defence and Strategic Goods List;

**Export Controls** means all legislation used by the Australian government to manage the trade of defence and strategic goods and technology;

**Governance Document** means a formally approved document that outlines non-discretionary governing principles and intentions, in order to guide University practice. Governance documents are formal statements of intent that mandate principles or standards that apply to the University's governance or operations or to the practice and conduct of its staff members and students they include the Charles Darwin University Act (2003), by-laws, policies, procedures, guidelines, rules, codes and the Enterprise Agreement;

**Publication** means the act of placing Defence and Strategic Goods List technology or software in the public domain;

**Staff member** means anyone employed by the University and includes all continuing, fixed-term, casual, adjunct or honorary staff or those holding University offices or who are a member of a University committee;

**Research Student** means anyone enrolled at the University and is undertaking a higher degree research course of study (whether full-time or part-time), either online, face-to-face or by a combination known as mixed-mode;

**Supply** means the act of intangibly sending, communicating, or providing access to, technology to a person outside Australia;

**Technology** means specific information necessary for the development, production or use of a product;

**Under the auspices of the University** means conducting research that may include, but is not limited to:

- Research activity/output that will be claimed for internal/external purposes through Charles Darwin University;
- Works identified, for example to potential participants, sites and in any output as being Charles Darwin University research;
- Any contracts/agreements associated with the work that will describe it as being under the auspices of Charles Darwin University;
- Any invoices or other payments associated with the work that will describe it as being under the auspices of Charles Darwin University; and
- Work covered by Charles Darwin University's insurance/indemnity.

## **POLICY**

### **Staff Member and Research Student Obligations**

It is the responsibility of staff members, research students and anyone undertaking research under the auspices of the University to ensure that they comply with the requirements of the [Defence Trade Controls Act 2012](#) and the [Customs Act 1901](#). In particular, staff members who work with [DSGL](#) goods and technology must actively recognise their compliance obligations.

Compliance responsibility rests with the staff member. It is not the responsibility of another part of the University or of another role in the University.

Staff members and Research Students must:

- Determine whether or not their research falls within the scope of the Defence Trade Controls Act 2012 or the Customs Act 1901 using online or other Defence Export Control Office resources. Please note that certain exemptions may apply for the kinds of research conducted in the University; and
- Advise the University's Export Controls Officer if their research falls within the scope of the Defence Trade Controls Act 2012 or the Customs Act 1901 and is not exempt, or if they have any doubt about the application of the Defence Export Control Office resources; and
- Create and keep all required records of work with Dual-Use Goods and Technology, including work conducted under a permit.

### University Obligations

The University supports its staff members and research students to meet their compliance responsibilities by maintaining a compliance framework. This includes:

- Appointing an Export Controls Officer located within the University's Office of Research and Innovation;
- Communicating compliance obligations via a website and otherwise;
- Supporting staff members and research students in the self-assessment of their research;
- Keeping appropriate records of work relating to Dual-Use Goods and DGSL Technology; and
- Liaising with the Defence Export Control Office when required, including requests for Permits.

### Non-compliance

All persons engaged in research under the auspices of the University must comply with all relevant laws, regulations, and special standards of work performance and ethical conduct imposed by a government or the University.

Failure to adhere to the Defence Trade Controls Act Compliance Policy is a serious matter, which may have legal implications for individuals, which may include large fines and imprisonment.

Failure to follow this policy may be grounds for disciplinary action under University's disciplinary procedures.

## ESSENTIAL SUPPORTING INFORMATION

### Internal

[Charles Darwin University and Union Enterprise Agreement](#)

[Research Data Management Policy](#)

[Research Practice Policy](#)

[Research Misconduct Allegation Procedures](#)

### External

[Customs Act 1901](#) (Commonwealth)

[Defence Trade Controls Act 2012](#) (Commonwealth)

[Defence and Strategic Goods List](#) (Commonwealth)

## Document History and Version Control

<b>Last amendment:</b>	15 Dec 2017	<b>Next Review:</b>	April 2019
<b>Sponsor:</b>	Pro Vice-Chancellor, Research and Research Training		
<b>Contact Officer:</b>	Director, Research		

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1.00	6 April 2016	Vice-Chancellor	Creation of original document and upload to CDU website.
1.01	15 Dec 2017	Governance	<ul style="list-style-type: none"> <li>• Conversion to new Governance template due to new University branding</li> <li>• Updated definition to staff member</li> <li>• Updated hyperlinks</li> </ul>