

Department of Defence

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## **Department of Defence consultation on the Exposure Draft of the Defence Trade Legislation Amendment Regulations 2024**

Universities Australia appreciates the opportunity to continue to engage with the Government on changes to Australia's Defence Trade Control framework and the draft regulations associated with the Defence Trade Legislation Amendment (the Regulations).

UA has been involved in the development of the *Defence Trade Controls Amendment Act 2024* (the DTCA) through consultations with Defence as well as the Senate Foreign Affairs and Trade Committee's Inquiry into the exposure draft of the Defence Trade Controls Amendment Bill 2023. UA is also a member of the Higher Education and Research Sector Working Group.

UA acknowledges the genuine consultation with the sector to ensure effective implementation of the amendments to the DTCA. This remains vital as we continue to seek the right balance of control without reducing Australia's ability to collaborate with key research partners. UA is pleased with the definition of 'fundamental research' and that this exemption is now written into the amended DTCA rather than delegated to the Regulations. This could not have been achieved without the process of "co-design" which was facilitated via the working group.

While UA is overall supportive of the Regulations, we have concerns around the potential for increased administrative burden on universities and potential for long processing times for licences and security clearances.

UA understands that there is work currently underway within the Department of Defence to develop an online tool to support SMEs with record keeping as it relates to the requirements in the DTCA. UA recommends that the needs of the university sector are considered in the development process of this tool to ensure it is fit for purpose for universities as well as SMEs. UA and our members would welcome targeted consultation (beyond the working group) to ensure that this is achieved.

Given the self-assessment nature of the defence export environment and the significance of the potential penalties, researchers are likely to be risk averse in assessing whether a permit is required to undertake research. Despite assurances from Government to the contrary, it is very possible that there will be a significant spike in applications for permits, as well as security clearances.

This risk can be mitigated through appropriately resourced, co-designed, capability building efforts potential including a suite of education and guidance materials and online learning models to support university decision-making on permit requirements.

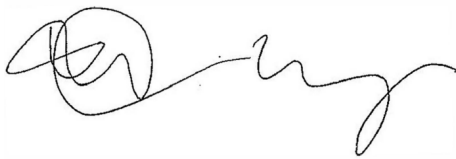
A clear 'decision tree' will assist universities in assessing whether a permit is required or not. This will give universities the confidence to self-assess, reducing the number of permit applications, minimising delays while significantly reducing the workload of the Department of Defence.

As stated in UA's submission to the 2023 Review of the DTCA 2012, we support the notion of a network of 'trusted agents' embedded within universities and/or peak bodies and accredited by the Department of Defence to act as advisors to the sector. Such a network has the potential to add significant capability across the sector, both in terms of supporting decision-making around permit requirements but also reducing barriers to broader participation in defence research. UA would welcome further conversation with the Government on how an appropriate model could be trialled in the sector.

Lastly, the *Safeguarding Australia's Military Secrets Act* (SAMS Act), which came into operation this month, is another piece of legislation universities must comply with in this space. The SAMS Act regulates the training that Australian citizens and permanent residents may provide to relevant foreign militaries or governments without a foreign work authorisation.

As training could have an educational meaning, this will have an effect on university academics. As such, an increase in the administrative burden from applying for foreign work authorisations is expected. UA recommends that this consultation considers and pays close attention to how other legislation, such as the SAMS Act will impose requirements on universities, as well as how the Government can support the sector to implement these changes.

Yours sincerely



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