

Research Export Controls Procedure

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Purpose

This document outlines the responsibilities of Federation University staff and students in relation to Research Export Controls.

Australia has in place export control laws to regulate the export of Defence and strategic goods, technology and software from Australia to a place outside Australia.

Federation University recognises that non-compliance with these laws can attract significant criminal penalties for individuals breaching the laws and provides training and information to promote compliance for researchers who may be affected by these laws.

Scope

This policy applies to all Federation University Australia staff and students who work with, or have the potential to work with, Defence and strategic goods, technology and software. This includes affiliates of, and any other individual associated with, the University.

Legislative Context

- Customs Act 1901
- Customs (Prohibited Exports) Regulations 1958
- Weapons of Mass Destruction (Prevention of Proliferation) Act 1995
- Defence Trade Controls Act 2012
- Defence Strategic Goods List (DSGL)

Definitions

A complete list of definitions relevant to this procedure is contained within the Research Export Controls Policy.

A further list of definitions **specifically** relevant to this procedure is included below:

TERM	DEFINITION
Australian General Export Licence (AUSGEL)	Licence issued by the Australian Government Department of Defence enabling the export of a range of controlled goods, software and technologies to certain countries for certain purposes. AUSGELs are valid for five years.
Basic scientific research	Experimental or theoretical work undertaken principally to acquire new knowledge of the fundamental principles of phenomena or observable facts, not primarily directed towards a specific practical aim or objective.
Brokering	Occurs when a person or organisation acts as an agent or intermediary in arranging the supply of DSGL goods, software and technology between two places located outside of Australia. For the activity to be considered brokering, the person must receive money or a non-cash benefit for arranging the supply.
Defence and Strategic Goods List (DSGL)	Australia's export control list of regulated defence and strategic goods, technology and software. Part 1 lists military items and Part 2 lists dual-use items that may be used for commercial and research purposes but may also be used in military systems or for weapons of mass destruction.
Export Controls	Collective term for all legislation used by governments to manage the trade of sensitive goods and technology. In the Australian context it includes the Customs Act 1901, the Defence Trade Controls Act 2012, the Weapons of Mass Destruction (Prevention of Proliferation) Act 1995, and Military End-Use provisions (Section 112BA) and Sanctions.
Intangible export	Any controlled goods that leave Australia electronically rather than in a physical form with an intention to be landed outside Australia. This includes goods sent for personal use, sale, demonstration, repair or return to the manufacturer.
In the public domain	Technology or software which has been made available without restrictions upon its dissemination. Copyright restrictions do not remove technology or software from being in the public domain.
Publication	Occurs when DSGL technology is made available to the public or to a section of the public via the internet or otherwise without access

	restrictions. Publication controls apply to anyone in Australia, or an Australian citizen or resident or Australian organisation located anywhere in the world. Having to pay to view the information is not an access restriction.
Regulator	The Australian Government Department of Defence and its Defence Export Controls Office.
Supply	Occurs when a person in Australia provides DSGL technology to another person outside of Australia. If access to the DSGL technology is controlled or restricted to particular users or groups, it has not been placed 'in the public domain', and is therefore a supply. Examples of supply include supply via email or fax, or by providing someone outside of Australia with passwords to access controlled technology stored electronically.
Tangible export	Any controlled goods that leave Australia in physical form, with an intention to be landed outside Australia. This includes goods sent for personal use, sale, demonstration, repair or return to the manufacturer, and controlled technology stored on a physical medium, such as a USB drive, computer hard drive or CD, outside of Australia.
Technology	Specific information necessary for the development, production or use of a product. This information takes the form of technical data or technical assistance.

Responsibilities

Federation University is registered as a client with the Department of Defence. The Vice-Chancellor has delegated the Provost to oversee research export controls at Federation University.

Additional responsibilities are as follows:

	ACTIVITY	RESPONSIBILITY	STEPS
A	Overseeing research export controls at Federation University	Provost Director, Research and Innovation	<ul style="list-style-type: none"> Promote awareness of the regulations and potential penalties for breaking the laws. Provide relevant training.
B	Becoming familiar with export controls laws	Individual Researcher	<ul style="list-style-type: none"> Be aware that primary responsibility for compliance rests with the individual researcher. Complete the training provided. A module explaining export controls is included in the Research Integrity training provided by Research Services <p>https://moodle.federation.edu.au/course/view.php?id=67204</p>

C	Promoting compliance	Research Centre Directors	<ul style="list-style-type: none"> Promote an environment where compliance with export controls is encouraged. Encourage researchers to complete the available training.
D	Lodging applications and maintaining a register	Director, Research and Innovation	<ul style="list-style-type: none"> Receive and submit applications for assessment. Maintain a central register detailing applications and approved permits. Monitor compliance with conditions of approval.

Export Controls

Controls to technology transfer do not apply to information in the public domain, to basic scientific research or to the minimum necessary information for patent applications. Activities that occur wholly within Australia are not captured by the Act.

Export controls also rarely apply to information, knowledge and technology taught in undergraduate courses since the material taught is generally in the public domain and characterised as basic scientific research.

The following activities involving controlled goods and technology may require a Department of Defence permit or approval:

Tangible Export

Tangible supply is any controlled goods that leave Australia in physical form, with an intention to be landed outside Australia. This includes goods sent for personal use, sale, demonstration, repair or return to the manufacturer, and controlled technology stored on a physical medium, such as a USB drive, computer hard drive or CD, outside of Australia.

Intangible Export

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.

Supply

Occurs when a person in Australia provides DSGL technology to another person outside of Australia. Examples of supply include supply via email or fax, or by providing someone outside of Australia with passwords to access controlled technology stored electronically. If access to the DSGL technology is controlled or restricted to particular users or groups, it has not been placed 'in the public domain', and is therefore a supply.

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.

Publication

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.

Actions

Researchers must follow the procedure below to identify whether their activities are controlled, and submit an application for DSGL Assessment if required:

	ACTIVITY	RESPONSIBILITY	STEPS
A	Identifying whether research activities are controlled	Individual Researcher	<p>Researchers should in the first instance use the Online DSGL Tool to identify whether their goods or technology intended for export are listed in the DSGL.</p> <p>If the goods or technology are listed, researchers must follow Step B below.</p>
B	Completing an application	Individual Researcher Director, Research and Innovation	The researcher must complete a Department of Defence Application for DSGL Assessment. Any researcher wishing to do so must contact the Director, Research Innovation & Enterprise.
C	Submitting an application	Individual Researcher Director, Research and Innovation	<p>The researcher must submit the application to the Director, Research Innovation & Enterprise.</p> <p>The Director will submit the application on behalf of the researchers.</p> <p>Details of the application will be recorded by the Director.</p>
D	Receiving outcome of assessment	Director, Research and Innovation	The Director will advise the researcher of the outcome, and notify if further action is required.

Supporting Documents

- [Research and Research Training Policy](#)
- [Foreign Interactions Procedure](#)
- [Defence and Strategic Goods List \(DSGL\)](#)

Responsibility

- The Provost (as the Approval Authority) is responsible for monitoring the implementation, outcomes and scheduled review of this procedure.
- The Director, Research and Innovation (as the Document Owner) is responsible for maintaining the content of this procedure as delegated by the Provost.

Promulgation

This procedure will be communicated throughout the University community via:

1. A FedNews announcement and on the 'Recently Approved Documents' page on the University's Policy Central website.
2. Distribution of e-mails to Deans.

Implementation

This procedure will be implemented throughout the University via:

1. A FedNews announcement and on the 'Recently Approved Documents' page on the University's Policy Central website.
2. Online training.

Records Management

DOCUMENT TITLE	LOCATION	RESPONSIBLE OFFICER	MINIMUM RETENTION PERIOD
Department of Defence Application for DSGL Assessment	Research Services	Director, Research Innovation & Enterprise	7 years