

INTRODUCTION OF THE SAFEGUARDING AUSTRALIA'S MILITARY SECRETS BILL 2023

What is the Safeguarding Australia's Military Secrets Bill 2023?

The Safeguarding Australia's Military Secrets (SAMS) Bill 2023 (the SAMS Bill) was introduced into Parliament in September 2023 to amend the *Defence Act 1903*. Submissions were invited, and closed on 16 November 2023. The Bill passed through the Senate on 27 March, and will take effect 28 days after the Royal Assent process and it being signed into law by the Governor General. The purpose of the new legislation is to establish a framework to regulate the work that certain former Defence staff members can perform without a 'foreign work authorisation'; and the training that Australians, may provide without a 'foreign work authorisation'.

All ADF and APS members continue to have a responsibility to protect Defence's official information, assets and intellectual property, after they transition from the ADF or separate from Defence. This includes the secrecy of the skills and knowledge gained through employment with Defence. They must also consider if there will be any potential for real or perceived conflict of interest when taking up employment with a private sector organisation, including any foreign affiliations that organisation may have.

The SAMS Bill is intended to ensure that sensitive Defence information remains in Australia's control. It will prevent and discourage post-Defence employment to foreign militaries.

Will it apply to you?

Do not assume it will not apply to you. The SAMS Bill, will apply to **all** former ADF and former Defence APS personnel, irrespective of rank or employment, or how long ago they worked for Defence. The SAMS Bill also contains provisions that apply to all Australian citizens and permanent residents which means it also applies to Defence industry partners including contractors and consultants.

The SAMS Bill will require former ADF and Defence APS employees who intend to, or are currently working for, a foreign military, foreign government or foreign government entity to undertake the process of obtaining a 'foreign workforce authorisation'. The application process will consider each individual's circumstances, and where appropriate will inform the individual if they are exempt from the legislation. For example, the SAMS Bill enables the Minister for Defence to exclude classes of former Defence personnel from the requirement to apply for authorisation. Former Defence personnel who work for companies directly tasked by the Australian Government are excluded from this legislation as are individuals working for the United Nations or the International Committee of Red Cross.

Other exemptions (Ministerial Legislative Instruments) may apply in terms of the country for whom the work is being performed and the period of time that has passed since an individual has performed a particular role. This period will be influenced by the type of work performed by an individual.

You can access the latest version of the Bill on the Defence website or direct from the Australian Parliament [website](https://aph.gov.au/Defence-Amendment-Safeguarding-Australia's-Military-Secrets-Bill-2024). ([Defence Amendment \(Safeguarding Australia's Military Secrets\) Bill 2024 \(aph.gov.au\)](https://aph.gov.au/Defence-Amendment-Safeguarding-Australia's-Military-Secrets-Bill-2024))

When will there be more information?

Full details of the SAMS Bill, exemptions and the Foreign Work Authorisation application process will be published to coincide with the new legislation takes effect (expect early May 2024).

Information, scenarios and Frequently Asked Questions (FAQs) will be disseminated through extensive sources within Australia and overseas. This will include where to go for further information, what the timeframes are and how to seek the required authorisation.

More details at this stage are provided via the [Defence Amendment: Safeguarding Australia's Military Secrets Bill 2023](https://www.defence.gov.au/about/governance/defence-amendment-safeguarding-australias-military-secrets-bill-2023) (www.defence.gov.au/about/governance/defence-amendment-safeguarding-australias-military-secrets-bill-2023).