

EXPLANATORY STATEMENT

ISSUED BY THE AUTHORITY OF THE MINISTER FOR DEFENCE

CUSTOMS ACT 1901

Defence and Strategic Goods List Amendment 2012 (No. 1)

The Defence and Strategic Goods List Amendment 2012 (No. 1) (the List) is the document formulated and published under paragraph 112(2A)(aa) of the *Customs Act 1901* by the Minister for Defence. The List identifies the goods which Regulation 13E of the *Customs (Prohibited Exports) Regulations 1958* prohibits from being exported from Australia unless a licence or permission has been granted by the Minister or an authorised person and that licence or permission is produced to a Collector of Customs before exportation.

The Defence Export Control Office (DECO) is responsible for administering controls on the export of defence and dual-use goods, and the granting of authorisations to export, in the form of permits and licenses. DECO's mission is to ensure Australia exports responsibly and detailed information on its roles and functions is available on the DECO website: <http://www.defence.gov.au/deco/>. The List embodies the export control guidelines developed by the multilateral non-proliferation and export control regimes of which Australia is a member.

The List is made up of the Wassenaar Arrangement Munitions List (Part 1), and the European Union Dual-Use List (Part 2), which incorporates the Wassenaar Arrangement, the Missile Technology Control Regime, the Australia Group and the Nuclear Suppliers Group.

The List was first published in 1996 when the *Customs (Prohibited Exports) Regulations 1958* were consolidated and revised. The List includes equipment, assemblies and components, associated test, inspection and production equipment, materials, software and technology. It is divided into two Parts.

Part 1 covers defence and related goods – those goods and technologies designed or adapted for use by the armed forces or goods that are inherently lethal. These goods include:

- Military Goods, that is, those goods or technology that are designed or adapted for military purposes including parts and accessories thereof; and
- Non-Military Lethal Goods, that is, equipment that is inherently lethal, incapacitating or destructive such as non-military firearms, non-military ammunition and commercial explosives and initiators.

Part 2 covers those goods that have a dual use. Dual-use goods comprise equipment and technologies developed to meet commercial needs but which may be used either as military components or for the development or production of military systems or weapons of mass destruction.

Part 2 is further subdivided into 10 categories –

- Category 0 – Nuclear Materials;
- Category 1 – Materials, Chemicals, Micro-organisms and Toxins;
- Category 2 – Materials Processing;
- Category 3 – Electronics;
- Category 4 – Computers;
- Category 5 – Telecommunications and Information Security
- Category 6 – Sensors and Lasers;
- Category 7 – Navigation and Avionics;
- Category 8 – Marine;
- Category 9 – Aerospace and Propulsion.

The last amendment to the List was made in October 2011.

The List is amended from time to time to reflect changes in multilateral non-proliferation and export control regimes. The List is aligned with the European Union Dual-Use List, and the Wassenaar Arrangement Munitions List.

There are 71 amendments to the DSGL Amendment 2012, which take the form of either new controls, deletions of previously existing controls, or modifications to existing controls. Of these 71 amendments, 26 are assessed by Defence as potentially having a minor positive impact on Australian industry because an export permit will no longer be required for goods affected by the change. The rest of the amendments involve goods and technology that have no known Australian manufacturers or exporters. This assessment was established by consulting DECO records, and open-source searching.

During the Senate review of the Defence Trade Control Bill, there were questions raised by some universities on why and how goods are placed on the DGSL. These questions, and more general stakeholder engagement on the DSGL, will be addressed through augmentation of Defence Export Control Office (DECO) training and materials, in consultation with the Strengthened Export Controls Steering Group.

The Strengthened Export Controls Steering Group will also facilitate access to technical and scientific expertise for future consideration of the control lists of international regimes and the DSGL.

This Explanatory Statement will also be publicly available on the DECO website.

The Office of Best Practice Regulation (OBPR) has been consulted in the making of this instrument. Based on the preliminary impact analysis submitted by DECO, the OBPR agreed that the proposed amendments have no, or low impact on business and individuals or the economy. Therefore, no further analysis in the form of a Business Cost Calculator or Regulatory Impact Statement is required.

ANALYSIS OF THE CHANGES IN DSGL AMENDMENT 2012

These amendments do not substantially alter the List's nature or overall content. Note that for the amendments assessed as having a minor impact to Australian industry, this is assessed as a positive impact.

Category 1 – Materials, Chemicals, Micro-organisms and Toxins

1A002.b: Decontrol of some small sized composite structures

Impact to Australian Industry: N/A

1C002.b: Decontrol of non-P/M alloys if they are not in tube or bar form

Impact to Australian Industry: Minor

1C008.a: Decontrol of some aromatic polyamide-imides

Impact to Australian Industry: Minor

1C010.b: Decontrol of carbon fibrous or filamentary materials with specific modulus below 14.65×10^6 m and specific tensile strength below 26.82×10^4 m; Decontrol of some small sized materials

Impact to Australian Industry: Minor

1C010.e: Change in the controls on fully or partially resin-impregnated fibrous or filamentary materials; Includes decontrols on small sized materials

Impact to Australian Industry: Minor

1C011.b: New control on boron alloys, and decontrol of boron carbide

Impact to Australian Industry: No known Australian exporters

1C111.a.5: New control on high energy density materials

Impact to Australian Industry: No known Australian exporters

1C111.c.6.o: Decontrol note for control ferrocene derivatives that contain a six carbon aromatic functional group attached to the ferrocene molecule

Impact to Australian Industry: No known Australian exporters

1C117: New control for solid tungsten

Impact to Australian Industry: No known Australian exporters

1C351.a: New controls for the viruses: Andes virus, Chapare virus, Choclo virus, Dobrava-Belgrade virus, Guanarito virus, Laguna Negra virus, Lujo virus, Sabia virus

Impact to Australian Industry: Minor

Category 2 – Materials Processing

2A001: A: decontrol of ball bearings having all tolerances in accordance with ISO 492 Tolerance Class 4, or equivalent

Impact to Australian Industry: No known Australian exporters

2A101: Decontrol of ball bearings having all tolerances in accordance with ISO 492 Tolerance Class 4, or equivalent, AND a width outside the range 10-20mm

Impact to Australian Industry: No known Australian exporters

2B006.a: Update of ISO standard for coordinate measuring machines

Impact to Australian Industry: N/A

2B206.a.2: Revision of the length measurement error calculation for dimensional inspection machines

Impact to Australian Industry: N/A

2B350: Decontrol of chemical manufacturing equipment and components that have a fluoropolymer lining with equal to or less than 35% fluorine by weight

Impact to Australian Industry: Minor

2B351: Increase in scope to include detectors, sensor devices, and replaceable sensor cartridges for controlled toxic gas monitoring systems

Impact to Australian Industry: Minor

Category 3 – Electronics

3A001.a.4: Decontrol of storage integrated circuits made from a compound semiconductor

Impact to Australian Industry: No known Australian exporters

3A001.a.5.a: Decontrol of some analogue-to-digital converters

Impact to Australian Industry: No known Australian exporters

3A001.a.5.b: Decontrol of some digital-to-analogue converters

Impact to Australian Industry: No known Australian exporters

3A001.b.2: Change in controls of some microwave monolithic integrated circuit (MMIC) power amplifiers, including decontrols to some amplifiers operating below 6.8GHz

Impact to Australian Industry: Minor

3A001.b.3: Change in controls of some discrete microwave transistors, including decontrols to some transistors operating below 6.8GHz

Impact to Australian Industry: Minor

3A001.b.4: Change in controls of some microwave solid state amplifiers and modules, including decontrols to some amplifiers and modules operating below 6.8GHz

Impact to Australian Industry: Minor

3A001.b.11: New control for some frequency synthesised electronic assemblies with a frequency switching time less than 1ms

Impact to Australian Industry: Minor

3A002.c: Decontrol of some radio frequency signal generators

Impact to Australian Industry: Minor

3A002.d: Change in controls on frequency synthesised signal generators, including decontrols to some signal generators operating between 43.5 and 70GHz

Impact to Australian Industry: Minor

3B001.c: Decontrol of some anisotropic plasma dry etching equipment

Impact to Australian Industry: No known Australian exporters

3B001.d: Decontrol of some anisotropic plasma dry etching equipment

Impact to Australian Industry: No known Australian exporters

3B001.e: Change in control of automatic loading multi-chamber central wafer handling systems

Impact to Australian Industry: No known Australian exporters

3B001.f: Decontrol of some lithography equipment

Impact to Australian Industry: No known Australian exporters

Category 4 – Computers

4A001.a.2: Decontrol of radiation hardened computers designed for civil aircraft use

Impact to Australian Industry: No known Australian exporters

4A003: Decontrol of computers with an adjusted peak performance with less than 1.5 WT performance

Impact to Australian Industry: Minor

4D001.b.1 and 4E001.b.1: Decontrol of software and technology for development or production of computers with performance less than 0.25 WT

Impact to Australian Industry: Minor

Category 5 – Telecommunications and Information Security

5B001.b.1: Decontrol of equipment for development of transmission or switching equipment

Impact to Australian Industry: No known Australian exporters

5B001.b.3: Decontrol of equipment for development of optical switching equipment

Impact to Australian Industry: No known Australian exporter

5D001.b.1: Decontrol of software for development of transmission or switching equipment

Impact to Australian Industry: No known Australian exporters

5D001.b.3: Decontrol of software for development of optical switching equipment

Impact to Australian Industry: No known Australian exporters

5E001.c.1: Decontrol of technology for development or production of equipment with a digital transfer rate below 50Gbit/s

Impact to Australian Industry: No known Australian exporters

5E001.c.3: Decontrol of technology for development or production of optical switching equipment with an optical switching time greater than or equal to 1ms

Impact to Australian Industry: No known Australian exporters

5E001.d.1&2: slight variation in parameters of MMIC power amplifier technology

Impact to Australian Industry: Minor

Category 5 Part 2: decontrol of items incorporating encryption that cannot be used for information security

Impact to Australian Industry: Minor

5A002.b: New control for items that are designed or modified to enable equipment to have a controlled level of cryptography

Impact to Australian Industry: Minor

5A002 Note j: Decontrol of equipment with dormant cryptography that either cannot be used, or can only be used by means of cryptographic activation

Impact to Australian Industry: Minor

5D002.d: New control for software designed or modified to enable equipment to have a controlled level of cryptography

Impact to Australian Industry: Minor

5E002.b: New control for technology for enabling equipment to have a controlled level of cryptography

Impact to Australian Industry: Minor

Category 6 – Sensors and Lasers

6A001.a.1.a: Minor amendment to controls for active seabed survey systems

Impact to Australian Industry: Minor

6A001.a.1.e: New control on active individual sonars for diver or swimmer detection

Impact to Australian Industry: No known Australian exporters

6A002.d: Decontrol of optical sensing fibres specially designed for bore hole sensing applications

Impact to Australian Industry: No known Australian exporters

6A003.b.2: Decontrol of scanning cameras capable of recording UV and IR images that are designed for medical; photocopier; or civil, stationary, close proximity scanning applications use

Impact to Australian Industry: No known Australian exporters

6A005.c.1: Decontrol of tunable multimode dye and liquid lasers operating between 150 and 600nm, with average power less than 20W

Impact to Australian Industry: No known Australian exporters

6A005.d.1.b.1: Decontrol of multiple-transverse mode semiconductor lasers with average power less than 15W, and operating at less than 1400nm

Impact to Australian Industry: No known Australian exporters

6A005.d.1.d: Increased scope for controls on semiconductor stacked arrays

Impact to Australian Industry: No known Australian exporters

6A005.d.1.e: New control for combined semiconductor stacked arrays that share electronic and cooling connections

Impact to Australian Industry: No known Australian exporters

6A005.g: New control for laser acoustic detection equipment (also known as laser microphones)

Impact to Australian Industry: No known Australian exporters

6A006.e: New control for underwater electromagnetic receivers incorporating either controlled magnetic field sensors, or controlled electric field sensors

Impact to Australian Industry: Minor

6A008.1.2: Decontrol of radar systems with processing systems that calculate target velocity from a primary radar with variable scanning rates

Impact to Australian Industry: No known Australian exporters

6A008.1.3: Decontrol of radar systems with processing systems that classify targets using automatic pattern recognition

Impact to Australian Industry: No known Australian exporters

6A008.1.4: Decontrol of radar systems with processing systems that take longer than 6 seconds to correlate data from two or more geographically dispersed radars/sensors

Impact to Australian Industry: No known Australian exporters

6D003.a.5: New control for software for diver detection systems

Impact to Australian Industry: No known Australian exporters

6D003.f.3 and 6D003.f.4: New controls for software and source code for real time processing of data from controlled underwater electromagnetic receivers

Impact to Australian Industry: Minor

6D003.h.1: Decontrol of air traffic control software that can process more than 150 targets simultaneous, but can only accept radar data from three or less primary radars

Impact to Australian Industry: Minor

Category 7 – Navigation and Avionics

7A001.a.1 and 7A001.a.2: Decontrol of linear accelerometers limited to vibration or shock measurement

Impact to Australian Industry: Minor

7A002: Decontrol of some gyros with a rate range less than 500 degrees per second

Impact to Australian Industry: No known Australian exporters
7E004.a.4: Decontrol of development and production technology for inertial navigation systems or gyro-astro compasses containing controlled accelerometers or gyros

Impact to Australian Industry: No known Australian exporters

Category 9 – Aerospace and Propulsion

9A001.a: Minor change in scope to aero gas turbine engines due to minor changes in the technology controls for FADEC and adjustable flow path systems (refer 9E003.h and 9E003.i)

Impact to Australian Industry: No known Australian exporters

9A003: Minor change in scope to aero gas turbine engine assemblies and components due to minor changes in the technology controls for FADEC and adjustable flow path systems (refer 9E003.h and 9E003.i)

Impact to Australian Industry: No known Australian exporters

9A109: Decontrol of hybrid rocket motors and components with a total impulse capacity less than 0.841 MNs

Impact to Australian Industry: No known Australian exporters

9B002: Minor change in scope to systems and data acquisition equipment for aerospace use due to minor changes in the technology controls for FADEC and adjustable flow path systems (refer 9E003.h and 9E003.i)

Impact to Australian Industry: No known Australian exporters

9B116: Increase in scope of controls on propulsion system production facilities- all facilities that produce missile propulsion systems or components are now controlled (applicable only for those missiles with a range of more than 300km)

Impact to Australian Industry: No known Australian exporters

9D003: Minor change in scope to software used in FADEC due to minor changes in the technology control for FADEC (refer 9E003.h)

Impact to Australian Industry: No known Australian exporters

9E003.h: Minor decontrol of some FADEC-related technology- refer to DSGL 2012 for FADEC-related technology that is controlled

Impact to Australian Industry: No known Australian exporters

9E003.i: Minor decontrol of some adjustable flow path system (AFPS) technology- refer to DSGL 2012 for AFPS technology that is controlled

Impact to Australian Industry: No known Australian exporters

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Defence and Strategic Goods List Amendment 2012 (No. 1)

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Instrument

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Australia is a member of all the multilateral non-proliferation and export control regimes. The regimes develop lists of goods, including military and dual-use goods, which should be subject to responsible export controls. The List is made up of the following regime lists: Wassenaar Arrangement Munitions List (Part 1), and the European Union Dual-Use List (Part 2) (which incorporates the Wassenaar Arrangement, the Missile Technology Control Regime, the Australia Group and the Nuclear Suppliers Group.)

The list is updated from time to time to reflect changes in the regime lists, and to ensure Australia upholds its international obligations under the regimes and international treaties.

Human rights implications

This Legislative Instrument does not engage any of the applicable rights or freedoms.

Conclusion

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

Minister for Defence: Mr. Stephen Smith MP