

Submission to the Parliamentary Joint Committee on Intelligence and Security Review of the Defence Amendment (Safeguarding Australia's Military Secrets) Bill 2023

I would like to thank the Committee for the opportunity to contribute a submission to the inquiry. Though I agree with the intention of this amendment, I believe there are fundamental discrepancies between its intention, and the offenses legislated within.

In his speech to parliament on the Bill's second reading, the Defence Minister expressed that the Bill is not intended to prevent Australians from working overseas, or with foreign governments, and that the intent is to prevent "*individuals with knowledge of sensitive defence information from training or working for certain foreign militaries or governments where that activity would put Australia's national security at risk.*" However, the wording of this Bill greatly extends beyond that of the specified intent, directly infringing on the liberties of those it affects.

As the details of both the authorisation process and Ministerial exemptions are unspecified and uncertain, I'll firstly consider the Bill with the conditions explicitly legislated within the amendment and the discrepancy to its intention.

Though the expressed intention specifies "*individuals with knowledge of sensitive defence information*", the Bill restricts all former defence staff, in addition to all Australian citizens and permanent residents. It is completely disproportionate to legislate over such a large group, if only applicable to those with knowledge of sensitive defence information.

Additionally, the Bill's intention is to restrict employment/training where "*where that activity would put Australia's national security at risk.*" However, the Bill broadly restricts any work for a government body, without consideration to the nature of the work being conducted or the type of government body (eg. school, hospital, university).

Thirdly, the intention refers to "*certain foreign militaries or governments*", however the Bill restricts employment to all countries, excluding those exempted by legislative instrument. Though I recognise the value in creating responsive legislation, having such a broad default disproportionately restricts individuals ability to work.

Though the Minister implementing extensive exemptions via legislative instrument, would reduce some of the impact of the excessive restrictions, this is not a wholly satisfactory solution. There would be no assurance that exemptions would not be reduced, extending the impact of the Bill well beyond the expressed intention.

The foreign work authorisation process is also unsatisfactory in reducing the inadvertent limitations enacted by the Bill. Mandating a potentially long and bureaucratic approval process, can greatly limit former defence staff's ability to accept benign employment, if substantial waiting times are imposed before starting. Additionally, concerns rise regarding privacy and unequal treatment of applicants.