



27 October, 2023

Committee Secretary
Parliamentary Joint Committee on Intelligence and Security
P O Box 6021
Parliament House
Canberra ACT 2600

Dear Secretary,

Attached, please find the AMWU's submission to the Defence Amendment (Safeguarding Australia's Military Secrets) Bill 2023.

Should you have any questions or require further information, please contact [REDACTED] on [REDACTED] in the first instance.

Yours sincerely

[REDACTED]
STEVE MURPHY
NATIONAL SECRETARY



**Submission of the Australian Manufacturing Workers' Union on the
Defence Amendment (Safeguarding Australia's Military Secrets) Bill 2023**

October 2023

Introduction

1. The Australian Manufacturing Workers' Union (**AMWU**) is a registered trade union. It is a national organisation representing over 60,000 members, including a wide range of blue- and white-collar workers within Australian manufacturing, engineering and science, from production and trades employees and their supervisors to planners plus drafting and technical employees.
2. The AMWU has civilian members within the Department of Defence (**the Department**), including each of the Armed Services and the Capability Acquisition and Sustainment Group, Defence Science and Technology Group, Joint Capabilities Group, Australian Geospatial – Intelligence Organisation, the Naval Shipbuilding and Sustainment Group and the Guided Weapons and Explosive Ordnance Group. It also has members within various contractors to Defence, including BAE Systems, Thales, Ventia, Boeing Aerostructures, Marand Precision Engineering, TAE, Quickstep, ASC, QinetiQ, Lockheed Martin/Sikorsky, Varley Engineering and Raytheon, and within related sub-contracting firms (including e.g. Bisalloy¹ and APV²).
3. It is not uncommon for AMWU members in private sector defence-related employment to have once been civilian employees within the Department and/or members of the Australian Defence Force (**ADF**).³ Over the years, there would have been multiple thousands of such employees. One only has to think here of the privatisation of a number of former production facilities or maintenance functions of the Department, inclusive of:
 - various government defence facilities which manufactured e.g. explosives, small arms and other ordnance, which are now owned by Thales Australia;
 - the former Government Aircraft Factories, which are now owned by Boeing Aerostructures Australia;
 - naval dockyards; and
 - the maintenance of Army materiel, which is now performed by Ventia.

¹ A producer of high-performance armour which has teamed with Rheinmetall on the Land 400 project.

² A seat-belt manufacturer exporting safety harnesses to the US military.

³ To these can be added former Departmental personnel who now work in private sector employment more generally (unrelated to defence) and who no doubt draw on the knowledge acquired and experience gained whilst they were in the Department or ADF.

4. To those employees affected by privatisation should be added a large number of employees who have transferred to private industry employment of their own volition after serving as “defence staff members” (as defined in the Bill).
5. The award covering defence-related employment in private industry is the Manufacturing and Associated Industries and Occupations Award 2020 (**the Award**). It covers, amongst many other things, mechanical and electrical engineering.⁴
6. The highest classification within the Award (one which falls within the registered coverage of the AMWU) is that of the Principal Technical Officer (**PTO**). The definition of that classification provides that “within organisational guidelines and objectives” an occupant may perform “work requiring mature technical knowledge involving a high degree of autonomy, originality and independent judgment” or “has as the overriding feature of their employment the ability to perform creative, original work of a highly complex and sophisticated nature”.⁵ Defence engineering and science, commonly being state of the art, draws upon such skill and experience, often in support of professionals.
7. The equivalent position within the Department would be classified at least as an APS Level 6 and perhaps an Executive Level 1.⁶ At these levels, according to the Department’s Defence Classification Manual, the occupant of such a position could fulfil the role of practitioner, innovator or manager (as defined within that manual).
8. The point is that many employees within the coverage of the AMWU, both present and past, have worked at relatively high levels within the defence sector in both the public and private sectors. They have done so across the range of defence domains – land, maritime, aerospace and joint, the latter including e.g. communications, surveillance and the production of ordnance. Many thousands have worked at lower levels within those domains.

⁴ See its 4.8(a)(iv). More generally see its 4.8 and 4.9.

⁵ See A.4.16 of the Award’s Schedule A.

⁶ That was certainly the case in past decades, but less so today.

The Bill

9. The AMWU supports the intention to deny foreign countries access to expertise which, if exploited, would be inimical to Australia's security interests. However, such support is predicated on the Bill giving balanced expression to that intention, so that any limitations placed on employees who once worked for the Department or served in the ADF are proportionate and reasonable.

10. The AMWU notes that the Bill's definition of a "foreign work restricted individual" is so broad as to capture the employees described in paragraphs 3 and 4 above (and footnote 3) and would expose such employees to potential to "commit an offence" associated with the performance of work.

11. Subject to paragraph 12 below, the Bill will create potential anomalies. Thales Australia provides at least one example. It has two facilities which build and maintain Bushmaster vehicles. The site at Bendigo in Victoria was originally a Commonwealth Ordnance Factory before it was privatised and its operation transferred to Thales, whilst that at Eagle Farm in Queensland was not previously owned by the Commonwealth. The Bushmaster has been exported to a number of countries, including the UK, the Netherlands, Japan and Indonesia. It is possible that employees from either facility could be offered and accept related employment in one of these countries. Alternatively, Thales being a French company, they might be offered employment in France. Such an employee with continuous service at Bendigo extending back to before privatisation would (subject to what follows) have to apply for a foreign work authorisation whilst a colleague at Eagle Farm (not previously a civilian employee of the Department or an ADF member) would not.

12. The AMWU notes the Bill's proposal that the Minister be given power under s.115 of the amended Act to grant exemptions, but that "[f]ull details of the exemptions" are currently undisclosed and will only be "publicly available prior to the legislation coming into effect".

13. In the case of each "foreign work restricted individual" as defined in the Bill, these exemptions should be exercised having regard to such matters as:
- the time that has passed since the individual concerned was a "defence staff member" (as defined);
 - the sensitivity of the knowledge/expertise (ever) held by that individual whilst in the Department or ADF;
 - whether or not the country in or for which the individual seeks to work is an ally of Australia; and
 - (in the case of a corporate entity or the like) whether or not the potential employer of the individual is one which the Commonwealth itself has engaged to perform work for or to provide services to Australia, such as to have established its security credentials, notwithstanding that a foreign government may control that employer in whole or in significant part.
14. The AMWU acknowledges that these matters are apparently already in contemplation.
15. If the Bill passes into law, its provisions should be exercised in such a way as to focus on that small minority of "foreign work restricted individuals" who might be tempted to act against Australia's security interests and whose current expertise or knowledge is such as to genuinely pose a potential threat to those interests.
16. The exemptions available under the Bill's provisions should be framed such as to allow "foreign work restricted individuals" the opportunity to accept overseas work without unnecessary intervention by government (such intervention demanding administration by and expense of the Commonwealth).