

Australian Capital Territory

Discrimination (Lockheed Martin entities) Exemption 2026

Notifiable instrument NI2026-174

made under the

Discrimination Act 1991, section 109 (Grant of exemptions)

1 Name of instrument

This instrument is the *Discrimination (Lockheed Martin entities) Exemption 2026*.

2 Commencement

This instrument commences the day after it is notified.

3 Exemption decision—Discrimination Act, s 109

The Human Rights Commission exempts the Lockheed Martin entities from the operation of sections 10, 13, 20, 23 and 69 of the *Discrimination Act 1991* for a period of 3 years.

4 Conditions on exemption

This exemption is subject to the conditions provided in the decision of the Human Rights Commission set out in Schedule 1 of this instrument.

Karen Toohey
Discrimination Commissioner

Dated: 7 April 2026

Pursuant to section 109 of the *Discrimination Act 1991* (ACT) (**Discrimination Act**), the Human Rights Commission grants Lockheed Martin Australia Pty Limited (ABN 30 008 425 509), Lockheed Martin Global, Inc. (ABN 68 078 183 712) and Sikorsky Aircraft Australia Ltd (ABN 82 003 031 909)) (together, the Lockheed Martin entities) exemptions from the operation of sections 10, 13, 20, 23 and 69 of the Discrimination Act subject to the following terms:

DEFINITIONS

In this exemption order:

Applicants means:

- (a) Lockheed Martin Australia Pty Limited (ABN 30 008 425 509);
- (b) Lockheed Martin Global, Inc. (ABN 68 078 183 712); and
- (c) Sikorsky Aircraft Australia Ltd (ABN 82 003 031 909).

Associated Instrument means:

- (a) manufacturing licence agreements;
- (b) technical assistance agreements;
- (c) third party retransfers in relation to foreign military sales and technology agreements;
- (d) assurance letters;
- (e) export licences granted by the US Department of Commerce and/or US State Department; and
- (f) memoranda of understanding
 - entered into by the Applicants pursuant to Australian and International Export Control Laws.

Australian and International Export Control Laws means:

- (a) requirements made by the Australian government, its Department of Defence or any other department of that government, including requirements under the *Defence Trade Controls Act 2012* (Cth);
- (b) the ITAR;
- (c) the EAR; and
- (d) the US Arms Export Control Act
 - as amended from time to time.

Controlled Material includes Controlled Classified Material and Controlled Unclassified Material as those terms are defined in the ITAR.

EAR means the US Export Administration Regulations.

ITAR means the US International Traffic in Arms Regulations.

Personal Information means:

- (a) an individual's passport details (including a certified copy of any passport), citizenship, nationality and/or residency (including previous and dual citizenship, nationality and residency), place and country of birth and/or substantive contacts to Proscribed Countries; and

(b) details regarding the matters in (a) above in respect of that individual's immediate family members and contacts

Proscribed Countries means those countries designated as such in section 126.1 of the ITAR.

Relevant Position means a current or future position within the Applicants' workforce that is or is likely to become subject to Australian and International Export Control Laws in respect of Controlled Material and/or Restricted Material.

Restricted Material means Controlled Material that is also subject to additional restrictions related to Personal Information pursuant to Associated Instruments.

US means the United States of America.

CONDUCT

The Applicants may engage in the following conduct in the Australian Capital Territory:

Request and require Personal Information from Job Applicants, Contractors and Employees

1. Request and require Personal Information from any current or future applicant for a Relevant Position (**Job Applicant**).
2. Request and require Personal Information from any current or future employee who holds a Relevant Position (**Employee**).
3. Request and require Personal Information from any current or future contract worker (including an employee of a contract worker) who is required to access Controlled Material and/or Restricted Material in respect of work performed under one or more of the Applicants' control or direction (**Contractor**).
4. Request and require any Employee or Contractor to notify the Applicants of any change to their Personal Information.
5. Request and require any Employee or Contractor who has or will have access to Controlled Information and/or Restricted Information to execute a non-disclosure agreement in accordance with any Associated Instrument.

Inform persons that they may be adversely affected by Australian and International Export Control Laws

6. Inform the following persons that they may be adversely affected by Australian and International Export Control Laws based on their Personal Information, including, in particular, if they are not an Australian citizen:
 - a. a Job Applicant;
 - b. an Employee; and
 - c. a Contractor.

Use Personal Information

7. Impose a condition on any offer of employment in a Relevant Position that the person must, pursuant to Australian and International Export Control Laws and any Associated Instrument, be authorised to access Controlled Material and/or Restricted Material pursuant to an individual approval obtained from the relevant Australian or overseas government department or otherwise.
8. Impose a condition on any offer of engagement or allocation of work that an individual person must, pursuant to Australian and International Export Control Laws and any Associated Instrument, be authorised to access Controlled Material or Restricted Material pursuant to an individual approval obtained from the relevant Australian or overseas government department or otherwise.
9. Take a Job Applicant, Employee or Contractor's Personal Information into account in determining whether that person may be offered or retain a Relevant Position or be allocated or continued to be allocated work that requires access to Controlled Material and/or Restricted Material.
10. Reject a Job Applicant's application for a Relevant Position based on the individual's Personal Information.
11. Advertise Relevant Positions:
 - a. as being subject to the matters set out in this exemption order;
 - b. without limiting (a) above, as being open only to individuals who are able to obtain the necessary security clearances to be authorised to access Controlled Materials and/or Restricted Materials.
12. Impose limitations or prohibitions on access to Controlled Material and Restricted Material on persons not authorised to access that material;
13. Restrict access to Controlled Material and/or Restricted Material, by means of transfer of personnel if necessary, to particular individuals based on their Personal Information.
14. Restrict access to areas of the Applicants' facilities connected with the performance of work on programs subject to Australian and International Export Control Laws to particular individuals, based on their Personal Information.
15. Establish security systems and access protocols that will prevent the unauthorised re-export or re-transfer of Controlled Material.
16. Maintain records in respect of:
 - a. security clearances granted to any Employee or Contractor;
 - b. approvals and/or access granted under Australian and International Export Control Laws to any Applicant, Employee or Contractor in respect of Controlled Material and/or Restricted Material; and/or

- c. the nationalities of all persons who have or will have access to Controlled Material and/or Restricted Material.
17. Disclose, if and when required, Personal Information of Employees and Contractors in the Australian Capital Territory (or such persons performing work remotely in respect of work based in the Australian Capital Territory) to:
- a. the US Department of State;
 - b. the US Department of Commerce;
 - c. the Australian Department of Defence; and
 - d. any other organisation, company or government department for which, or on whose behalf, or at whose request one or more of the Applicants undertakes work in respect of which one or more of the Applicants has, directly or indirectly, an obligation under Australian and International Export Control Laws in respect of Controlled Information and/or Restricted Information.
18. Terminate the employment or engagement of an Employee or a Contractor on the basis that:
- a. due to the Personal Information of the Employee or Contractor, the Applicants are prohibited from permitting that individual access to Controlled Material and/or Restricted Material pursuant to Australian and International Export Control Laws and any Associated Instrument; and
 - b. it is not reasonable in all the circumstances to redeploy or transfer that individual to another role within the Applicants' operations, or within a business operated by one of the Applicants' associated entities.

CONDITIONS

19. This exemption order applies only to the Applicants' conduct where:
- a. it is necessary to enable the Applicants to meet their obligations under Australian and International Export Control Laws and any Associated Instrument;
 - b. the Applicants have taken all steps that are reasonably available to avoid engaging in conduct which would otherwise be in breach of sections 10, 13, 20, 23 and 69 of the Discrimination Act, including:
 - (i) relying on any applicable exemptions or exceptions under Australian and International Export Control Laws;
 - (ii) where a Job Applicant, Employee or Contractor is not approved for access to Controlled Material and/or Restricted Material, requesting that the US Department of State, or requesting that the relevant export license holder(s) request that the US Department of State, amend the relevant export licenses or other Associated Instrument to enable the Job Applicant, Employee or Contractor to have access to Controlled Material, unless the Applicants, on reasonable grounds, determine that either:
 - i. the Job Applicant, Employee or Contractor is not the best candidate for the position and work;

- ii. such a request to the US Department of State does not have significant prospects of success; or
- iii. such a request to the US Department of State is not likely to be determined within the timeframe in which it is necessary for the Job Applicant, Employee or Contractor to commence the relevant work for the Applicants; and
- iv. in the event that the US Department of State requires the Applicants to provide further information specific to the Job Applicant, Employee or Contractor, then with the consent of that person, the Applicants will work with the person to supply all relevant information to the US Department of State so that an application for approval may be made in relation to that person.

20. Where, pursuant to this exemption order, the Applicants wish to reserve the right to make a conditional offer of employment or engagement in relation to a position which will or may involve access to Controlled Material and/or Restricted Material, any advertisement, invitation for expressions of interest, or other promotional information referring to the position must include the information that:

- a. the position will or is likely to require access to Controlled Material and/or Restricted Material and that any person occupying the position must be able to satisfy Australian and International Export Control Laws-based requirements which may require specific authorisation for that person to access that material; and
- b. if an Applicant is concerned as to whether or not they will satisfy the requirement in 2(a) above, they should contact a nominated employee of the Job Applicants who is able to provide the Applicant with relevant information, including the information set out in condition 3 below.

21. The Applicants:

- a. must specifically communicate to Job Applicants, Employees and Contractors who currently require or who may in future require access to Controlled Material and/or Restricted Material:
 - i. express notice that the Job Applicant, Employee or Contractor may be adversely affected by requirements imposed under International Control Laws based on Personal Information;
 - ii. a reasonable explanation in plain English of the nature of any such adverse effects referred to in condition 3(b) above;
 - iii. express notice that the Applicants have an exemption under the Discrimination Act to enable them to take steps to prevent access to Controlled Material and/or Restricted Material;
 - iv. that any necessary application for specific authorisation for a person to access Controlled Material and/or Restricted Material will be made by the Applicants, in appropriate cases;
 - v. information about how the Job Applicant, Employee or Contractor can apply for Australian citizenship; and
 - vi. information regarding the Job Applicant's, Employee's or Contractor's rights under Australian Federal, State and Territory discrimination laws.

- b. may comply with this Condition 3 through a range of alternatives, including individual written notices, published policy statements, web-based posting or other similar means.
22. Where, pursuant to this exemption order, an Employee or Contractor who is not authorised pursuant to Australian and International Export Control Laws to have access to Controlled Material and/or Restricted Material (including pursuant to any individual security clearance), is moved from a job requiring access to such material to a job not requiring access to such material the Applicants must, through a duly authorised officer, explain to the person why he or she is being transferred and must otherwise take all reasonable steps to avoid or limit harm or loss to that person.
23. Where the Applicants use a system of coded security passes to restrict access to Controlled Material and/or Restricted Material, or to restrict access to material subject to Australian and International Export Control Laws, the security passes must not be coded in such a manner that a person's nationality can obviously be identified from the coding.
24. All information relating to security passes, security clearance levels and access to Controlled Material and/or Restricted Material shall be restricted to persons in the following departments or positions and to their properly appointed nominees on a "need to know" basis:
 - a. Human Resources;
 - b. Facility Security;
 - c. Export / Import Compliance; and
 - d. an Employee or Contract Worker's Hiring Manager.
25. The Applicants' employment or other relevant policies shall be amended as soon as reasonably possible so as to refer to the terms of this exemption order, including all conditions attaching to it, and to expressly state that the Applicants' request for Personal Information is made solely for the purposes of compliance with International Control Laws.
26. The Applicants are required to provide a written report to the Australian Capital Territory Human Rights Commission every six months from the date of this exemption order, over the period of the exemption order, detailing:
 - a. the steps it has taken to comply with the above conditions;
 - b. the number of persons affected by this exemption order, the nature of any adverse effects of this exemption order, and the steps taken by the Applicants to address those adverse effects;
 - c. the anti-discrimination training provided or facilitated by the Applicants to Employees and Contractors; and
 - d. measures taken by the Applicants to implement and comply generally with the terms of this exemption order.

This decision is a notifiable instrument and must be notified under the [Legislation Act 2001 \(ACT\)](#).

SIGNED by the ACT Discrimination Commissioner

Dated 7 April 2026