

Form 83 – Application for exemption or renewal of exemption

Anti-Discrimination Act 1991, section 113

Industrial Relations (Tribunals) Rules 2011, rule 80A

INDUSTRIAL REGISTRAR
26 JUN 2026
QUEENSLAND

Information

- Use this form to apply or renew an exemption from provisions of the *Anti-Discrimination Act 1991*.
 - Please read this form carefully. Please complete all relevant sections. Information that is missing or non-compliant with the relevant section of an Act or the Rules may result in the rejection of your form.
 - Once your form has been processed the Industrial Registry will contact you and provide you with a sealed copy of your application.
 - Practice Direction 3 of 2021 - ELECTRONIC FILING AND HARD COPIES OF DOCUMENTS. Documents which are longer than 30 pages in length must be supplied to the Industrial Registry in hard copy before it will be accepted for filing.
- Note:** The applicant may file a **Form 20 - affidavit** in support of the application.

For further information please contact the Industrial Registry on 1300 592 987 or via email at qirc.registry@qirc.qld.gov.au

Applicant:

Leidos Australia Pty Limited

Gibbs & Cox (Australia) Pty Ltd

Application

This is an Application to the Queensland Industrial Relations Commission, pursuant to section 113 of the *Anti-Discrimination Act 1991*.

1. Applicant

Name of applicant:

Kathryn Ellis

Organisation:

Leidos Australia Pty Limited

ABN:

79 612 590 155

Postal address:

Level 2, 42 Lakeview Drive

Suburb/Town Scoresby

Postcode 3179

Phone number:

-

Fax number:

-

Mobile number:

0455 096 387

Email address:

Kathryn.Ellis@au.leidos.com

Does the applicant have a representative?

A representative might be a lawyer, a union, an agent or a family member or friend who will speak on behalf of the applicant. There is no requirement to have a representative.

☒ Yes - provide representative's details below and file a Form 33 or 34

☐ No

2. Applicant's representative			
Organisation:	Kingston Reid		
Name of contact person:	Katie Sweatman		
Postal address:	Level 9, 140 William Street		
	Suburb/Town Melbourne	Postcode	3000
Phone number:	03 9958 9605	Fax number:	-
Mobile number:	0478 486 758		
Email address:	katie.sweatman@kingstonreid.com / marcus.topp@kingstonreid.com		

3. Details of exemption sought	
(a) Provision of Act from which exemption is sought:	Sections 14, 15, 15A, 124 and 127
(b) Period or further period for which the exemption is sought:	5 years
(c) Person, people or class of people for whom the exemption is sought:	Present and future employees / contractors of Leidos Australia Pty Limited and Gibbs & Cox (Australia) Pty Ltd

4. Signature of applicant or representative	
Signature:	
Name in full: (please print)	Katie Sweatman
Date:	26 / 06 / 2026

Please Note: Schedule 1 - Grounds of Application must be completed

Statement made on behalf of the applicant

(Using numbered paragraphs, please set out detailed information in support of the application) 3000 character limit. (Note: If more than 3000 characters are required please attach a schedule)

Please see attached document entitled "Reasons for Application".

Schedule 1 - Grounds of Application

Part 1 of the Act provides for the application of the provisions of the Act to the following grounds of application:

Please see attached document entitled "Reasons for Application".

IN THE QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

Matter no / /

LEIDOS AUSTRALIA PTY LIMITED

GIBBS & COX (AUSTRALIA) PTY LTD

The Applicants

REASONS FOR APPLICATION

Filed on behalf of:	The Applicant	Ref:	11829.00048
Prepared by:	Kingston Reid Level 9, 140 William St Melbourne VIC 3000	Email:	katie.sweatman@kingstonreid.com / marcus.topp@kingstonreid.com

Introduction

1. For the reasons set out further below, as supported by the enclosed affidavit of Kathryn Ellis dated 26 June 2026, Leidos Australia Pty Ltd (**Leidos**) and Gibbs & Cox (Australia) Pty Ltd (**GCA**) (together, the **Leidos Entities**) seek exemptions pursuant to s 113 of the *Anti-Discrimination Act 1991* (Qld) (AD Act) for:
 - (a) a renewal of the exemption granted to Leidos on 28 June 2021 in *Re: Leidos Australia Pty Ltd* [2021] QIRC 229 (for the period from 28 June 2021 to 27 June 2026); and
 - (b) a new exemption in respect of GCA.
2. The exemptions are sought in the draft terms attached to this application and marked "Draft Exemption Order" (**Proposed Exemption**).
3. The Leidos Entities seek the Proposed Exemption for a period of less than five years, until 29 November 2030. This proposed timing is to align with exemptions granted to the Leidos Entities in other jurisdictions.

The Leidos Entities

4. The Leidos Entities are subsidiaries of Leidos Inc, a US defence, aviation, information technology, and biomedical research company that provides scientific, engineering, systems integration and technical services, including extensively to the US Department of Defense, US Department of Homeland Security and US Intelligence Community.
5. In Australia, the Leidos Entities provide large-scale systems integration and information technology services, primarily to the Commonwealth of Australia, including in the areas of defence, intelligence and health.
6. The Leidos Entities have several major contracts with the Department of Defence and make a significant contribution to the Australian Intelligence Community.
7. It continues to be a condition of the Leidos Entities' contracts with the Commonwealth of Australia that they comply with all applicable laws and regulations, including US import and export control laws and regulations.

US laws and regulations

8. The Leidos Entities are required to comply with all applicable laws and regulations, including US export control laws and regulations.
9. Over 50% of defence equipment and technology acquired by the Commonwealth is sourced from the US and is subject to both Australian and US export control laws and regulations. Minimising the risk of diversion of controlled technology, data and other material to unauthorised entities, including unauthorised individuals, is a key tenet of both Australian and US export control laws and regulations.
10. The key US Government export control regulations that are relevant to and affect the Leidos Entities and their contractual obligations with the Commonwealth are:
 - (a) the *US International Traffic in Arms Regulations (ITAR)*, which control the import and export of certain defence-related articles and services, including technical data, listed on the US Munitions List; and
 - (b) the *Export Administration Regulations (EAR)*, which control the import and export of commercial items and dual-use items ('dual-use items' being commercial items that have, or may be modified to have, military capability).
11. This application for an exemption is intended to cover technology, data and other material that are deemed "controlled" under ITAR and EAR (**Controlled Material**), requiring US export authorisation in order to lawfully transfer the Technology to non-US individuals or entities under those regulations.
12. In order to perform the work and fulfil their obligations under their contracts with the Commonwealth, the Leidos Entities require access to Controlled Material.
13. Both the ITAR and EAR contain restrictions on the access to and diversion of Controlled Material to specific countries (**Proscribed Countries**), including to individuals who hold, or have held, nationality of Proscribed Countries, even where those individuals are located within Australia. Under the EAR, an individual's nationality is deemed to be the most recent citizenship.
14. The Proscribed Countries under ITAR are set out in Part 126.1 of ITAR, as updated from time to time. As at the date of this application, the Proscribed Countries under section 126.1 of ITAR were: Afghanistan, Belarus, Burma, Central African Republic, China, Cuba, Cyprus, Democratic Republic of Congo, Ethiopia, Eritrea, Haiti, Iran, Iraq, Lebanon, Libya, Nicaragua, North Korea, Russia, Somalia, South Sudan, Sudan, Syria, Venezuela, and Zimbabwe.
15. Under the ITAR and EAR, restrictions are placed on access to Controlled Material by individuals classified as:
 - (a) a "**Dual National**", who for Australian purposes is an individual who holds Australian citizenship, in addition to citizenship of one or more other countries (except for the US); or
 - (b) a "**Third Country National**", who for Australian purposes is an individual who holds nationality of a country or countries other than Australia or the US.
16. Where the Leidos Entities receive, access, manage or transfer Controlled Material, they must ensure that they have approval to do so from the US Department of State, by way of a licence or agreement, and must ensure that they comply with all conditions associated with the relevant licence or agreement.
17. Where Controlled Material is categorised as "US unclassified" under US Government regulation, the Leidos Entities may rely on the exemption under section 126.18 ITAR (**126.18 Exemption**), which enables personnel who hold an Australian Government-issued Security Clearance, at the "Baseline" level or above, to access that Controlled Material.
18. However, the 126.18 Exemption does not apply to Controlled Material that is categorised as "US classified" or above, requiring the Leidos Entities to manage access to ensure personnel do not

access the Controlled Material where they hold or have held Dual or Third Country Nationality of a Proscribed Country under section 126.1 of ITAR, or where they have substantive ties to such Proscribed Countries.

19. The Leidos Entities require access to both US classified and US unclassified Controlled Material in order to perform the work and fulfil their obligations under their contracts with the Commonwealth.

Penalties for non-compliance with US export control laws

20. Heavy fines and other significant penalties may be imposed on the US exporter and on Leidos if US Controlled Material is shared with individuals holding a citizenship/nationality of a country or countries that have not been authorised by the US Department of State, either by way of an exemption or exception, or explicitly approved by way of license or agreement.
21. In addition to penalties imposed by the US Department of State, a breach of US export controls and regulations would place Leidos in breach of their conditions of contract with the Commonwealth of Australia, resulting in potential fines, loss of revenue, termination, and inability to perform contractual obligations.

The AD Act and scope of exemption sought

22. In order to comply with the US export control laws to access Controlled Material required to perform the contracted works for Defence, the Leidos Entities may be required to perform certain activities pursuant to those laws (including pursuant to conditions imposed under those laws by the US Secretary of State when granting or approving licences or agreements for access to Controlled Material) which could contravene provisions of the AD Act, particularly those provisions which aim to protect individuals from discrimination on the ground of race.
23. These activities, for which the Leidos Entities seek an exemption, are specified in the Proposed Exemption (**Proposed Exempt Activities**) and include, by way of example, requesting and storing personnel nationality information and taking into account personnel citizenship, previous citizenships held, race, nationality, or substantive contacts when determining whether an individual may be offered a role or allocated work that involves access to Controlled Material.
24. Relevantly, in the AD Act:
 - (a) section 4 defines "race" to include "colour, descent or ancestry, ethnicity or ethnic origin and **nationality or national origin**" as set out in Schedule 1 of the AD Act (emphasis added);
 - (b) section 14 prohibits discrimination in the area of "pre-work";
 - (c) section 15 prohibits discrimination in the work area;
 - (d) section 15A prohibits discrimination by principals;
 - (e) section 124 prohibits the request of unnecessary information on which unlawful discrimination might be based; and
 - (f) section 127 prohibits the publication and display of discriminatory advertisements.
25. Accordingly, without the Proposed Exemption, the Proposed Exempt Activities may amount to a contravention of sections 14, 15, 15A, 124 and 127 of the AD Act.
26. The Leidos Entities therefore seek the Proposed Exemption to ensure they can, without contravening the AD Act, perform in Queensland the Proposed Exempt Activities necessary to ensure compliance with those US laws relevant to the performance of the Leidos Entities' contracts with Defence.

The Human Rights Act

27. The effect of the exemption sought would be to allow the Leidos Entities to discriminate on the basis of 'race' in the work and work-related areas. This necessitates the Commission to consider whether the proposed limitations are reasonable and justifiable in accordance with s 13 of the HR Act.
28. Section 13 of HR Act states that human rights may be limited under the law if reasonable limits can be demonstrably justified based on human dignity, equality, and freedom, and the following factors are considered:
- (a) the nature of the human right;
 - (b) the nature of the purpose of the limitation, including whether it is consistent with a free and democratic society based on human dignity, equality and freedom;
 - (c) the relationship between the limitation and its purpose, including whether the limitation helps to achieve the purpose;
 - (d) whether there are any less restrictive and reasonably available ways to achieve the purpose;
 - (e) the importance of the purpose of the limitation;
 - (f) the importance of preserving the human right, taking into account the nature and extent of the limitation on the human right;
 - (g) the balance between the matters mentioned in paragraphs (e) and (f).
29. Each of these factors is addressed below.

The nature of the human right

30. The human rights relevant to the application are the right to equal protection of the law without discrimination and the right to equal and effective protection from discrimination.
31. In the matter of *Lifestyle Communities Ltd (No 3) (Anti-Discrimination)* [2009] VCAT 1869 (**LifeStyle Communities**), it was considered that it was a common feature of exemption applications that there is no particular "victim" of the intended discrimination. It was recognised that such applications are usually undefended and not opposed by the relevant human right and equal opportunity commission. Further it was noted that such applications are often routine, and it is rare for someone to appear in a hearing to oppose such an application.
32. It was further discussed that exemptions of this nature have far reaching consequences and that it is important for a tribunal to take the nature of the right being limited into proper account. Further it was noted that the tribunal in such a circumstance, is the guardian of the human rights of the community in these applications.¹
33. The Leidos Entities are genuinely committed to promoting diversity and inclusion in its workplaces, and would not be applying for this exemption if not for its obligations arising under the ITAR and EAR.

The nature of the purpose of the limitation

34. The means by which the purpose is to be achieved includes utilising nationality and national origin information to make determinations about the engagement of the Leidos Entities

¹ *LifeStyle Communities* at [390] and [392].

workforce. There is no doubt that such a limitation is undesirable and inconsistent with a free and democratic society based on human dignity, equality and freedom.

35. However, these considerations must be weighed with respect to the purpose of the exemption. In this matter the purpose of the exemption is in order for the Leidos Entities to comply with US export control laws which will permit it to access Controlled Material in the operation of its business. The Leidos Entities submit that the exemption is essential to achieving the purpose and the purpose is of importance as it will enable the Leidos Entities to provide aviation services to the Commonwealth, which the Leidos Entities submit is critical in ensuring Australia's defence and national security interests are met.
36. The Leidos Entities do not seek any exemption which goes any further than what is necessary to strictly comply with its obligations under the ITAR and EAR.

The relationship between the limitation and its purpose, including whether the limitation helps to achieve the purpose:

37. The purpose of the limitation is to enable the Leidos Entities to comply with the ITAR and EAR to have access to Controlled Material and satisfy its contractual partners of such.
38. The Leidos Entities submit that the exemption is only sought to the extent needed to meet its compliance with the ITAR and EAR and that the Leidos Entities will take all steps reasonably available to avoid conduct which would otherwise be in breach of sections 14, 15, 15A, 124 and 127 of the AD Act.

Whether there are any less restrictive and reasonably available ways to achieve the purpose:

39. As outlined further below, the Leidos Entities submit that there are no alternative or less restrictive means available to achieve compliance with the ITAR and EAR and to provide the contracted services to the Commonwealth.

The importance of the purpose of the limitation, the importance of preserving the human right, and finding a balance between the two

40. The following consequences arise should the exemption not be granted:
41. First, the Leidos Entities will not be able to meet the Commonwealth of Australia's contract requirements without Controlled Material. Consistent with *LifeStyles*, the Leidos Entities submit that the exemption is not being sought solely for commercial or economic purposes.
42. Second, the Leidos Entities may also not be able to conduct business in Queensland and would not be able to expand business and hire more Queenslanders without limiting this right.
43. Third, the Leidos Entities would be in breach of the US laws and exposed to the risk of extraordinarily large fines if it did not limit the rights. Should the Leidos Entities be in breach, it may be that the Commonwealth of Australia could also suffer reputational damage and exposure to a breach.
44. Fourth, staff members who breach the ITAR and EAR are at risk of many years of imprisonment – that includes the staff members whose nationality is the subject of this application. The limitation sought will protect the Commonwealth contracts for Queensland, local hiring and business in Queensland, the Leidos Entities, individuals working for the Leidos Entities and the dual/previous citizens of the ITAR 126.1 countries.
45. Finally, the Leidos Entities submit that if it is not granted an exemption and fails to comply with ITAR and EAR requirements, this will impact the support the Leidos Entities provides to the Commonwealth Australia, in particular, the Department of Defence in relation to defence and national security interests for the purposes of protecting Queensland persons of all nationalities.
46. The Leidos Entities submit that the limitation in the circumstances of this matter is legitimate and of sufficient importance to limit the human rights affected, and the limitations are consistent with

the purpose for which the Leidos Entities have sought and proportionate to and appropriate for achieving this purpose.

47. For the above reasons, the Commission can be satisfied that the limitation on human rights is reasonable and justifiable.

Additional considerations in granting an exemption

48. Section 113(1) of the AD Act confers a broad and unfettered discretion upon the Commission to grant an exemption from specified provisions of the AD Act. A number of considerations have been traditionally identified as matters that may assist the Commission in the exercise of its discretion, including:

- (a) whether the exemption is necessary;
- (b) whether there are non-discriminatory ways of achieving the objects or purposes for which the exemption is sought;
- (c) whether the exemption is in the community interest;
- (d) whether any other persons or bodies other than the Applicant support the application;
- (e) whether it is reasonable and appropriate to grant the exemption; and
- (f) the effect of not granting the exemption.²

49. Each of these considerations is addressed separately below.

The Proposed Exemption is necessary

50. There are no relevant exceptions or exemptions in the AD Act which apply to the Leidos Entities in respect of the Proposed Exempt Activities.
51. While section 25 of the AD Act provides an exemption for genuine occupational requirements, the Queensland Industrial Relations Commission considered this provision in the 2021 decision and found that, on the evidence before it, it was unable to conclude that s 25 applied because access to Controlled Material is not, at all times, essential to every position and does not form a genuine operational requirement for all Leidos personnel.
52. Without such an exemption, the Proposed Exempt Activities would amount to unlawful conduct under the AD Act, as explained above.
53. The exemption is therefore necessary to permit the Leidos Entities to lawfully perform the Proposed Exempt Activities in Queensland.

There are no non-discriminatory ways of achieving the objects or purposes for which the exemption is sought

54. As set out above, the Proposed Exemption's purpose is to allow the Leidos Entities to comply with US export control laws for access to Controlled Material required by the Leidos Entities to perform contracted works for Defence which are critical to Australia's security interests.
55. To access the Controlled Material, the Leidos Entities must comply with US export control laws, which entails performing the Proposed Exempt Activities. Noncompliance with such laws can have a number of significant consequences, including the following:

² See, for example, *Re: Protech Personnel Pty Ltd* [2019] QIRC 175 at [9] and *Re Kalwun Development Corporation Ltd* [2019] QIRC 141 at [6].

- (a) Significant financial and other penalties, including imprisonment, may be imposed on the Leidos Entities and on the US exporter of Controlled Material to the Leidos Entities if Controlled Material is shared with individuals holding citizenship or nationality of a country that has not been authorised by the US Department of State, either by way of an exemption or exception, or explicitly approved by way of licence or agreement.
 - (b) In addition to imposing financial penalties, the US Department of State also has the power of 'statutory debarment' under the US Arms Export Control Act for non-compliance with ITAR. Statutory debarment would prohibit the Leidos Entities from accessing Controlled Material for a specified period should it be found to be in breach of ITAR, which in turn, would prevent the Leidos Entities from performing the contracted works for Defence.
56. Where possible, the Leidos Entities intend to utilise exemptions available under ITAR so that the Proposed Exempt Activities are only performed where absolutely necessary. However, as addressed above, these exemptions may not be available in all cases.
57. As addressed above, as a general rule under ITAR, Dual and Third Country Nationals are deemed ineligible to access Controlled Material unless an exemption is available, or explicit authorisation is granted by the US Department of State.
58. The 126.18 Exemption provides a mechanism which has the effect of reducing the need to discriminate. It enables the provision of Controlled Material to Dual or Third Country Nationals via two mechanisms:
- (a) The first part of the exemption enables 'bona fide regular employees' of a party to an export authorisation, who hold an Australian Government-issued Personal Security Clearance to have access to unclassified Controlled Material approved for release under an export authorisation, regardless of whether the 'bona fide regular employee' is a Dual or Third Country National, or has substantive contacts. This exemption applies automatically.
 - (b) The second part of the exemption enables Dual or Third Country National 'bona fide regular employees' who do not hold a Personal Security Clearance to be screened by way of a company self-screening process that meets the requirements under ITAR.
59. As at June 2026, approximately 82% of Leidos personnel held a sponsored security clearance ranging from Baseline to Top Secret.
60. However, while the 126.18 Exemption provides an alternative to undertaking certain discriminatory activities required under US export control laws, there is no exemption available under ITAR to enable Dual or Third Country Nationals access to classified technology where those personnel hold (or previously held) nationality of or have substantive contacts with a Proscribed Country under section 126.1 of ITAR. In such circumstances, personnel who hold Dual or Third Country Nationality of a Proscribed Country must either be explicitly authorised in writing to the US Department of State, or be restricted from accessing the classified Controlled Material.
61. Seeking the Proposed Exemption is the only means by which the Leidos Entities may simultaneously undertake their business in Queensland, provide critical services concerning the security of Australia and avoid engaging in prohibited discrimination.

Whether the application is supported

62. The Leidos Entities are not presently aware of any person or body that holds a view as to whether an exemption should be granted.

The exemption is in the community interest

63. The Proposed Exemption is in the community interest. Without the Proposed Exemption, the Leidos Entities will not be able to lawfully conduct in Queensland the Proposed Exempt Activities

necessary to comply with US export control laws. Without access to Controlled Material, the Leidos Entities will be unable to fulfil their contractual obligations with Defence and will therefore not be able to provide the critical services and support which are essential to Australia's defence and national security interests, not only in Queensland but across Australia.

64. Should the Leidos Entities be unable to perform their contracted works, the employment of the Leidos Entities' personnel across Australia who work under one of their Defence contracts may be adversely affected and may result in a significant number of redundancies.
65. Furthermore, as some of the Leidos Entities' projects and programs do not require access to Controlled Material, and as the Leidos Entities have been able to undertake past recruitment in a manner consistent with the previous exemption granted to Leidos, the Leidos Entities do not anticipate that performing any of the exempted activities, should a further exemption be granted, will result in any need to consider the redeployment or termination of any existing personnel.
66. It is in the local community interest for the Leidos Entities to continue operating in Queensland with the intent of maintaining and creating specialised employment opportunities for Queenslanders.

The exemption is appropriate and reasonable

67. The purpose of the Proposed Exemption is to allow the Leidos Entities to comply with US export control laws (which neither the Leidos Entities nor the Australian Government have the power to amend) enabling the Leidos Entities to perform contracted works which are critical to the capabilities of Defence and in meeting Australia's security interests. Were it not for the requirement to comply with US export control laws in order to provide such services which are fundamental to Australia's security interests, the Leidos Entities would not be seeking the Proposed Exemption to lawfully perform the Proposed Exempt Activities.
68. The Leidos Entities recognise the protections from discrimination afforded to the residents of Queensland under the AD Act and acknowledge that, but for the grant of an exemption, the Proposed Exempt Activities may amount to discrimination which the AD Act seeks to prohibit. The terms of the Proposed Exemption have therefore been drafted to ensure that it goes no further than necessary to achieve compliance with the US export obligations in a manner causing the least interference with the protections under the AD Act while allowing the Leidos Entities to operate their businesses which is beneficial to the Australian Government, residents of Queensland and the security of all Australians.
69. The interests served by the Proposed Exemption and consequences if it is not granted therefore justify excluding the Proposed Exempt Activities from the prohibitions in the AD Act, particularly when having regard to the security interests of Australia and the employment and economic interests of residents of Queensland who depend on the Leidos Entities' business for their livelihoods.
70. In the circumstances, the Proposed Exemption is both appropriate and reasonable and should be granted.

The effect of not granting the exemption

71. To access the Controlled Material, the Leidos Entities must comply with US export control laws, which entails performing the Proposed Exempt Activities. Non-compliance with such laws can have a number of significant consequences as noted at paragraph 55 above.
72. If the exemption is not granted, the Leidos Entities would be unable to lawfully conduct their activities in Queensland in order to comply with the US export control laws. Without access to Controlled Material, the Leidos Entities will be unable to discharge their contractual obligations

with Defence, and will therefore not be able to provide critical services and support which form part of Australia's Defence and national security interests.

Other matters

73. Other considerations that support the Proposed Exemption being granted include the following:
- (a) The Leidos Entities would not be seeking to engage in the Proposed Exempt Activities if it were not for the need to comply with US export control laws in order to provide essential services for Defence.
 - (b) There is no other reason the Leidos Entities seek to have an exemption granted in respect of the Proposed Exempt Activities and would not seek the Proposed Exemption otherwise.
 - (c) Seeking the Proposed Exemption is the only means by which the Leidos Entities may simultaneously undertake their business in Queensland, provide critical services concerning the security of Australia and avoid engaging in prohibited discrimination.
 - (d) Leidos has previously been granted exemptions for conducting the Proposed Exempt Activities in Queensland, New South Wales, Victoria, South Australia and the Australian Capital Territory. GCA has been granted exemptions in Victoria and the Australian Capital Territory. It would be appropriate to give weight to the fact that authorities across Australia have reached the view that, under the provisions of similar legislation, such exemptions were appropriate.
74. In light of all the considerations set out above, we submit that the Proposed Exemption should be granted.

Draft Order

It is ordered that:

1. Pursuant to section 113 of the Act and subject to the conditions contained in the Schedule, an exemption is granted to Leidos Entities from the operation of sections 14, 15, 15A, 124 and 127 of the Act for the period from **[DATE OF ORDER]** to 29 November 2030.
2. The exemption is granted in respect of the operation of sections 14, 15, 15A, 124 and 127 of the Act insofar as those sections relate to the 'race' (as that attribute is defined in section 4 of the Act) of the Leidos Entities' workforce.
3. The exemption permits the Leidos Entities to engage in the following activities:

Applicants for employment

- (a) Inform applicants for employment or contract work in roles which will require access to Controlled Material and are subject to permits, licences, approvals or agreements made under US and Australian import and export control laws that they may be adversely affected by ITAR and EAR controls if they:
 - (i) are not an Australian citizen; or
 - (ii) hold, or have held, dual nationality and/or citizenship from countries other than the US or Australia; or
 - (iii) have substantive contacts with countries proscribed by section 126.1 or ITAR;

Request for information about nationality

- (b) Request and maintain records of information from Personnel who perform or may perform work on the Leidos Entities' premises or offsite and who are subject to the Leidos Entities' control and direction for positions related to projects which use Controlled Material, in relation to current citizenship, prospective citizenship, previous citizenships, permanent residency, race or nationalities, or substantive contacts where such contacts are affiliated with countries proscribed by section 126.1 of ITAR, provided the request for information is limited to information for determining whether an application for authorisation would be required to allow the prospective personal to have access to Controlled Material and whether in the Leidos Entities' judgment that the application would have a significant prospects of success;

Use of nationality information

- (c) Impose a condition of any offer of employment in roles which are likely to require access to Controlled Material that an applicant for those roles must, pursuant to ITAR, be authorised to access that Controlled Material, whether pursuant to an individual approved obtained from the US Department of State or otherwise;
- (d) Take into account current citizenships, prospective citizenships, previous citizenships, permanent residency, race or nationalities, or substantive contacts of personnel where such contacts are affiliated with countries proscribed by section 126.1 of ITAR in determining whether those personnel may be offered a role or allocated work that involves access to Controlled Material;
- (e) Maintain records of the current citizenships, prospective citizenships, previous citizenships, permanent residency, race and nationalities and substantive contacts of personnel who have or may have access to Controlled Material;

- (f) Require personnel involved in projects which access Controlled Material to notify the Applicant of any change to their citizenship or permanent residency status, nationalities or substantive contacts;
- (g) Restrict access to Controlled Material to particular personnel based on their current citizenships, prospective citizenships, previous citizenships, permanent residency, race or nationalities, or substantive contacts where such contacts are affiliated with countries proscribed by section 126.1 of ITAR;
- (h) Record information relating to security clearances granted to personnel who are under the control and the direction of the Applicant in relation to work requiring access to Controlled Material;
- (i) Impose limitations or prohibitions on access to Controlled Material on persons not authorised to access the Controlled Material;
- (j) Maintain records of the current citizenships, prospective citizenships, previous citizenships, permanent residency, race or nationalities of persons who have or will have access to Controlled Material, with distribution limited to only those persons with a need to know, for the purposes of determining their ability to participate in a particular engagement.
- (k) Establish security systems and access protocols that will prevent the unauthorised export or transfer (including re-export or re-transfer) of Controlled Material;
- (l) Disclose, if and when required, current citizenships, prospective citizenships, previous citizenships, permanent residency, race or nationalities, or substantive contacts where such contacts are affiliated with countries proscribed by section 126.1 of ITAR, of the Applicant's personnel in Queensland to:
 - (i) the US Department of State;
 - (ii) the US Department of Commerce;
 - (iii) the Australian Department of Defence; and
 - (iv) any other person or organisation for which, or on whose behalf, or at whose request the Leidos Entities undertake work in respect of which the Leidos Entities have directly or indirectly an obligation not to transfer Controlled Material to persons of certain nationalities.

4. In this Exemption Order:

- (a) "**Act**" means the *Anti-Discrimination Act 1991* (Qld);
- (b) "**Leidos Entities**" mean Leidos Australia Pty Ltd (ACN 612 590 155) and Gibbs & Cox (Australia) Pty Ltd (ACN 114 790 260), or each of them individually as the context requires;
- (c) "**Controlled Material**" means material (including equipment, technology, articles and services) and information (including classified or sensitive information and technical data) to which the Security Requirements apply;
- (d) "**EAR**" means the *Export Administration Regulations* of the US;
- (e) "**ITAR**" means the *International Traffic in Arms Regulations* of the US;
- (f) "**Personnel**" means the current and prospective workforce of the Leidos Entities, including employees, contract workers, employees of contractors and candidates or applicants for these roles;

- (g) **"Security Requirements"** means any of the following:
 - (i) requirements of Australian or US laws, including but not limited to ITAR and EAR, including requirements of any permit, licence or approval granted, or agreement made, under those laws;
 - (ii) contractual requirements applying to the Leidos Entities and relating to any of the requirements mentioned in subparagraph (i) above;
- (h) **"US"** means the United States of America.

Schedule: Conditions

1. This exemption applies only to the Leidos Entities' conduct where:
 - (a) it is necessary to enable the Leidos Entities to obtain and maintain US export licences and approvals or to perform contractual obligations which involve access to Controlled Material;
 - (b) the Leidos Entities have taken all steps reasonably available to avoid engaging in conduct which would otherwise be in breach of sections 14, 15, 15A, 124 and 127 of the Act, including:
 - (i) reliance on ITAR exemptions, exceptions or other provisions, including section 126.18 of ITAR, where applicable;
 - (ii) where personnel are nationals or dual nationals of a country not approved for access to Controlled Material, then the Leidos Entities will either request the US Department of State, or request the relevant export license holders to request the US Department of State to amend the relevant export licences to enable those personnel to have access to Controlled Material, unless the Leidos Entities, on reasonable grounds, determine that either:
 - (A) the personnel are not the best candidate for the relevant position; or
 - (B) such an application does not have significant prospects of success;
 - (iii) in the event the US Department of State requires the Leidos Entities to provide further information specific to an individual, then with the consent of that individual, the Leidos Entities will work with the individual to supply all relevant information to the US Department of State so that an application for approval may be made in relation to that individual.
2. Where, pursuant to this exemption, the Leidos Entities wish to reserve the right to make a conditional offer of employment in relation to a position which will or may involve access to Controlled 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 that any individual occupying the position must be able to satisfy ITAR-based requirements which may require specific authorisation for that individual to access Controlled Material; and
 - (b) if a candidate for the position is concerned as to whether or not they will satisfy the requirement in (a) above, the candidate should contact a nominated member of the Leidos Entities' personnel who is able to provide relevant information, including information about the scope of the exemption and the candidate's individual rights.
3. The Leidos Entities must provide to the Queensland Human Rights Commission a written report by 30 November each year over the period of this exemption. Each report must be provided within 21 days from the end of the relevant reporting period. Each report must detail:

- (a) the steps they have taken to comply with the terms of the exemption;
- (b) the number of persons affected by the exemption, the nature of the effects and the steps taken to redress any adverse effects; and
- (c) the implementation of and compliance generally with the terms of the exemption.