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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA
HOUSE OF REPRESENTATIVES

Presented and read a first time

Online Safety Amendment (Digital Harm Prevention) Bill 2026

No. , 2026
(Communications)
DHP-B 2026/01 · Revision 2 · 27 September 2026

Closed statutory material categories, child-only access protections, ranking choice and accountable formal notices.

Coordinated drafting basis
One general rights test. One set of specific online categories. Child-only restrictions preserve lawful adult access. Government moderation demands require valid statutory notices, with reasons, records and review.

A Bill for an Act to amend the Online Safety Act 2021 to require reasonable steps against specified illegal material, to protect children against a closed statutory list of age-restricted harms, to confer a durable user right to switch off engagement ranking, to forbid viewpoint categories and ministerial expansion of speech restrictions, and for related purposes This Bill gives effect to Digital Harm Prevention Policy DHP-P 2026/01. It is a principal set of amendments to the Online Safety Act 2021. It is not an amendment of the Online Safety Amendment (Digital Duty of Care) Bill 2026. That exposure draft is to be withdrawn.

Contents

Part 1 - Preliminary: clauses 1-4

Part 2 - Amendments: clause 5

Schedule 1 - Digital harm prevention: items 1-4

Schedule 2 - Application, saving and transitional: items 1-7

The Parliament of Australia enacts:

Part 1-Preliminary

1 Short title

This Act is the Online Safety Amendment (Digital Harm Prevention) Act 2026.

2 Commencement

(1) Sections 1 to 5 and Schedule 2 commence on the day this Act receives the Royal Assent.

(2) Schedule 1 commences on the 28th day after Royal Assent.

(3) Schedule 2 item 7 governs coordination with the Free Speech Act 2026.

3 Objects

The objects of this Act are:

(a) to prevent the distribution, by means of an online service, of specified prohibited material under the closed statutory list, with particular force against child-sexual exploitation material, pro-terror material and non-consensual intimate images (including synthetic intimate images);

(b) to protect children from a closed list of age-restricted harms defined in the Online Safety Act 2021 in classification language;

(c) to confer on users aged 16 years or over of large social media services a durable right to switch off personalised engagement ranking;

(d) to preserve the implied freedom of political communication and Australia's obligations under article 19 of the International Covenant on Civil and Political Rights by forbidding viewpoint categories of restricted material and forbidding the addition of speech-restrictive categories by legislative instrument, code, standard or notice; and

(e) to confine the eSafety Commissioner's systemic powers to the categories written in the Online Safety Act 2021.

4 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Part 2-Amendment of the Online Safety Act 2021

5 Schedule 1 has effect

Schedule 1 amends the Online Safety Act 2021.

Schedule 1-Digital harm prevention

Online Safety Act 2021

1 After Part 3

Insert:

Part 3A-Digital harm prevention

Division 1-Preliminary

43A Simplified outline of this Part

A person responsible for a covered online service must take reasonable steps to prevent the service being used to distribute specified illegal material. For users the person knows or reasonably ought to know are children, the person must take reasonable steps against a closed child-protection list. Large social media services must offer a durable ranking opt-out. Viewpoint alone does not authorise suppression; independently established restricted material remains subject to the safeguards in this Part. Restricted categories live in this Act. They cannot be added by instrument.

43B Definitions for this Part

In this Part:

child means a person who has not reached 18 years.

Class 1 material has the same meaning as in this Act, and includes child-sexual exploitation material.

closed child-protection list means the material listed in section 43G.

covered online service means a social media service, a relevant electronic service, a designated internet service, a hosting service, an internet search engine service, an app distribution service, or a service that enables an end-user in Australia to generate material by artificial intelligence and make that material available to other end-users. It does not include an internet carriage service merely because the service carries the communications of another person.

engagement ranking means a system that selects, orders or recommends material for an end-user by reference to predicted engagement, watch-time, shares, comments or a similar behavioural metric, rather than by reverse-chronological order or by an end-user's express follow or subscribe choices.

illegal material means material of a kind listed in section 43E. This is a regulatory label for this Part and does not itself create a criminal offence of possession or expression.

large social media service means a social media service that has at least 1 million active Australian accounts in a calendar month.

person responsible for a covered online service means the provider of the service, and does not include a person merely because the person is an officer, employee or contractor of the provider without day-to-day control of the service as a whole.

political communication has the meaning given by the implied freedom of political communication as recognised by the High Court.

pro-terror material means material whose production or distribution is an offence against Part 5.3 of the Criminal Code. Praise, endorsement or opinion alone does not satisfy this definition unless the elements of that offence are independently established.

synthetic intimate image means an image, video or other depiction of a person that has been generated or altered by digital means so as to appear to show the person in a state of undress or engaged in a sexual pose or sexual activity, in circumstances in which the person did not consent to the generation, alteration or distribution.

Note: Internet carriage services remain subject to existing notice and blocking powers in this Act. They are not placed

under the systems duty in section 43D merely because they carry other people's traffic.

43C Constitutional basis

This Part relies on:

(a) paragraph 51(v) of the Constitution (postal, telegraphic, telephonic, and other like services);

(b) paragraph 51(xx) of the Constitution (foreign corporations, and trading or financial corporations formed within the limits of the Commonwealth);

(c) paragraph 51(xxix) of the Constitution as it applies to giving effect to the International Covenant on Civil and Political Rights, the Convention on the Rights of the Child and the Optional Protocol to that Convention on the sale of children, child prostitution and child pornography; and

(d) the implied freedom of political communication, as a limit on the other powers and as a rule of construction.

Division 2-Illegal material duty

43D Duty to take reasonable steps against illegal material

(1) A person responsible for a covered online service must take reasonable steps to prevent the service being used to distribute illegal material to an end-user in Australia.

(2) Reasonable steps include, where technically feasible for the kind of service:

(a) functioning hash-matching or equivalent disruption of known child-sexual exploitation material;

(b) rapid action on a valid notice given under this Act that identifies illegal material with sufficient particularity; and

(c) the absence of wilful blindness to the service being used as a marketplace for illegal material.

(3) Reasonable steps do not include:

(a) a duty to pre-empt a lawful opinion;

(b) a duty to scan private communications solely between consenting adults that are not otherwise unlawful;

(c) a duty to identity-verify an adult as a condition of political communication; or

(d) a duty to alter ranking, generation or discovery systems so as to suppress material that is not illegal material and is not on the closed child-protection list.

(4) Subsection (1) is a civil penalty provision.

Note: The civil penalty for a body corporate is set by section 43Q. It attaches to systemic failure, not to a single missed

item.

43E Meaning of illegal material

Illegal material is material that is:

(a) Class 1 material;

(b) child-sexual exploitation material, including material that depicts, describes or is intended to groom a child for sexual activity;

(c) pro-terror material;

(d) a non-consensual intimate image of a person, including a synthetic intimate image;

(e) material whose creation or distribution is an offence against a law of the Commonwealth dealing with a threat to kill, stalking, cyberflashing, or the non-consensual publication of personal information in circumstances that constitute an offence; or

(f) material that instructs in the commission of an offence against a law of the Commonwealth that is punishable by imprisonment for 5 years or more, other than an offence that consists only of the expression of an opinion.

The list in this section is closed. It cannot be added to by legislative instrument, industry code, standard, notice or ministerial satisfaction.

Division 3-Closed child-protection list

43F Duty in respect of children

(1) A person responsible for a covered online service must take reasonable steps to prevent the service recommending to a child, or, where technically feasible, supplying to a child, material on the closed child - protection list.

(2) Subsection (1) applies only where the person knows, or reasonably ought to know, that the end-user is a child.

(3) Reasonable steps may include age assurance that is proportionate to the risk of the particular service supplying material on the closed child-protection list. Reasonable steps do not include a requirement that an adult display a legal name as a condition of political communication.

(4) Subsection (1) is a civil penalty provision.

43G Closed child-protection list

(1) The closed child-protection list is the following material only:

(a) material classified X 18+ or Refused Classification on the ground of sexual activity, or material that is equivalent to such material and has not been classified;

(b) material that instructs in suicide or in a method of serious self-harm;

(c) material that instructs in a method of an eating disorder;

(d) material that instructs in, or directly encourages, the commission by a child of an indictable offence against a law of the Commonwealth, a State or a Territory.

(2) Material does not fall within paragraph (1)(b) or (c) merely because it is discussion, memoir, news reporting, research, recovery information, or an account of lived experience that does not instruct in a method.

(3) Material does not fall within paragraph (1)(d) merely because it depicts, reports or comments on crime.

(4) The list in subsection (1) is closed. It cannot be added to by legislative instrument, industry code, standard, notice or ministerial satisfaction.

(5) Without limiting subsection (4), none of the following is a category of restricted material under this Act:

(a) a hostile attitude towards women, men, or gender equality;

(b) a political, religious, scientific or moral opinion about sex, gender, crime, medicine, immigration or government;

(c) "mental wellbeing," "psychosocial harm," "self-esteem," "social cohesion," or a like phrase;

(d) any residual class of material that "could" or "may" cause harm.

Division 4-User ranking control

43H Durable ranking opt-out

(1) A person responsible for a large social media service must offer every end-user in Australia who has reached 16 years a durable control that lets the end-user choose between:

(a) personalised engagement ranking; and

(b) a reverse-chronological feed, a follow-only feed, or both.

(2) The choice:

(a) must be presented in plain language at first use and again on request;

(b) must persist across sessions, devices linked to the same account, and product updates;

(c) must not reset to engagement ranking after an update, a design change, or a lapse of time; and

(d) must not be defeated by a dark pattern, pre-ticked box, disappearing control, or repeated prompt designed to reverse the choice.

(3) No power under this Act authorises the Commonwealth to prescribe:

(a) a replacement ranking system;

(b) a "public interest feed"; or

(c) a list of favoured sources that a service is required to amplify.

(4) Subsection (1) is a civil penalty provision.

Note: This section is the statutory "My Feed, My Way." It is a user right. It is not a hook for a ministerial ranking.

Division 5-Speech lock

43J No viewpoint suppression

(1) Nothing in this Act authorises a requirement to remove, suppress, demonetise, down-rank or refuse to generate material solely because it expresses a political, religious, scientific or moral opinion.

(2) A code, standard, rule, notice, direction or condition inconsistent with subsection (1) is void to that extent.

(3) Material is not exempt from section 43E or 43G merely because it also expresses an opinion. The decision-maker must establish the statutory elements independently of disagreement with the opinion and comply with section 43JA.

43JA Necessity, proportionality and relationship with Free Speech Act

(1) A restriction on expression under this Act must be provided by clear and accessible law, pursue only the rights or reputations of others, national security, public order, public health or morals, and be necessary and proportionate to that purpose.

(2) The person imposing the restriction must identify the specific threat, demonstrate a direct connection between the material and that threat, and select the least intrusive effective measure. For a preventative child-access duty, that assessment may concern the specified category and manner of recommendation or supply; it does not require waiting for injury to an identified child.

(3) A restriction based only on section 43G must be confined to recommendation or supply to children. It must not require general removal from lawful adult access. If an effective child-only restriction is not technically feasible, that fact does not itself authorise a general takedown; the statutory reasonable-steps standard applies.

(4) When the Free Speech Act 2026 is in force, sections 8 to 12 of that Act apply cumulatively. This Part supplies specific duties and categories, not an exemption from that Act. Its general protected-expression presumption does not dispense with an independently established duty under section 43D or 43F.

(5) Neither Act enlarges a power merely by referring to the other. Nothing in this section alters the Constitution or prevents Parliament amending an Act by later legislation.

43K Implied freedom - strengthened application provision

This Act does not apply to the extent that its operation would infringe the implied freedom of political communication. This section is in addition to, and does not limit, section 233.

43L Categories live in the Act

(1) A legislative instrument, industry code, industry standard, notice, direction or condition must not create a category of restricted material, seriously harmful material, material harmful to children, or a like class.

(2) An instrument that purports to do so is void.

(3) The Minister must not be satisfied of a new harm, a new design feature, or a new class of service for the purpose of enlarging a speech restriction. Satisfaction is not a source of power.

43M Statutory notices and prohibited informal requests

(1) A Commonwealth Minister, officer, Department or the Commissioner must not request, direct or pressure a provider to remove, restrict, demonetise, down-rank or refuse to generate particular material except by a valid notice under an identified statutory power.

(2) A notice must specify the power; the paragraph of section 43E or 43G relied on; the particular material; the required action; reasons establishing the elements and compliance with section 43JA; the compliance period; and available review and stay rights. A notice based only on section 43G must state its child-only scope.

(3) A purported notice or request inconsistent with subsection (1) or (2) has no legal effect. A statutory category is a limit on a power, not a freestanding source of power, except as expressly provided in section 43MA.

(4) Subsection (1) does not prohibit an application to a court, a report to police of suspected unlawful conduct, or supply of evidence without a request or pressure for moderation. Nor does it prohibit a general public statement of policy that does not seek action against particular material or a particular speaker.

(5) A person commits an offence if the person, acting as a Commonwealth Minister or officer, intentionally represents to a provider that an informal moderation request is legally compulsory, knowing that it is not. Penalty: 60 penalty units. Chapter 2 of the Criminal Code applies. The prosecution bears the burden of proving every element beyond reasonable doubt.

(6) A provider must record every statutory notice and attempted request described in subsection (1), whether or not action is taken, including the date, requesting office, category claimed, action sought and action taken. Recording does not validate a request. Records must not contain copies of unlawful imagery and must be retained for two years with appropriate privacy safeguards.

(7) A provider relying on a Commonwealth statutory safe-harbour from liability for user material must publish a quarterly aggregate report within 30 days of quarter end, separating action under valid notices, action following prohibited requests and independent terms-of-service moderation. Other covered providers must give the Commissioner the relevant annual aggregate records within 30 days of financial-year end.

(8) The Commissioner must publish an annual aggregate report of notices and recorded attempted requests within four months of financial-year end. A report must not identify victims, individual end-users or confidential journalistic sources or prejudice a lawful investigation. A necessary deferral must be limited to the affected details and reviewed each reporting period.

(9) Failure to report does not automatically remove a safe-harbour. The Commissioner may seek a Federal Court order requiring compliance after giving the provider written particulars and at least 14 days to respond. A reporting direction cannot require moderation of material.

43MA Confined notice power

(1) If satisfied on reasonable grounds that a covered service distributes material within section 43E, the Commissioner may give its provider a written notice to remove or restrict access to that material in Australia, to the extent necessary under section 43JA.

(2) If satisfied on reasonable grounds that a provider is failing section 43F, the Commissioner may give its provider a written notice requiring specified reasonable steps to prevent recommendation or supply of section 43G material to children. Subsection (2) does not authorise a general adult takedown.

(3) A notice must comply with section 43M, allow a reasonable time having regard to urgency and technical feasibility, and state the evidence and reasons. Section 86A governs the specified urgent categories. The Commissioner must give an opportunity to respond before a non-urgent notice; for an urgent notice, that opportunity must be given as soon as practicable after issue.

(4) A provider must comply with a valid notice unless stayed or set aside. The Commissioner may seek a Federal Court injunction to enforce it. A single item notice does not itself establish systemic failure or attract the systemic civil penalty.

(5) An existing notice power retains its own preconditions and safeguards in addition to sections 43J to 43MA. There is no authority to issue an informal substitute for a statutory notice.

Division 6-Enforcement and review

43N Systemic failure

(1) A civil penalty under section 43D or 43F may be imposed only if a court is satisfied that the failure was systemic.

(2) A failure is not systemic merely because a single item of illegal material or closed-list material was available on the service.

(3) It is a defence that the person had in place systems that a reasonable person in the position of the person would have regarded as adequate to prevent distribution of the statutory category relied on. The defendant bears an evidential burden in relation to the defence.

43P No penalty for undefined safety culture

A person is not liable to a civil penalty under this Part for:

(a) failing to complete a risk assessment against a harm that is not listed in section 43E or 43G;

(b) failing to manage a design feature that is not used to distribute illegal material or closed-list material; or

(c) failing to produce a document that assesses "safety culture," "psychosocial harm" or a like phrase.

43Q Civil penalties

(1) The maximum civil penalty for a contravention of section 43D by a body corporate is 60,000 penalty units.

(2) The maximum civil penalty for a contravention of section 43F or 43H by a body corporate is 10,000 penalty units.

(3) The maximum civil penalty for a contravention of section 43D, 43F or 43H by a person other than a body corporate is one-fifth of the corresponding body-corporate maximum.

(4) A civil penalty may be imposed only by a court. The Commissioner may not issue an infringement notice for a contravention of section 43D.

(5) The maxima in this section are the final maxima for the stated category of person. A general body-corporate multiplier does not apply to increase them.

Note: The 60,000-unit figure is reserved for systemic failure on illegal material. It is not available for paperwork, ranking

design or a ministerial mood.

43R Merits review

(1) Application may be made to the Administrative Review Tribunal for review of:

(a) a notice or direction given by the Commissioner that requires removal, restriction or a specified system change; and

(b) a decision that a service is a large social media service for the purposes of section 43H.

(2) The Tribunal must use its resources so that a review under this section is determined as quickly as a proper consideration of the matter allows.

(3) A notice remains in force pending review unless the Tribunal stays it. The Tribunal must stay a notice that does not comply with section 43M or that requires general adult removal solely on a child-list ground. Judicial review and the remedies under the Free Speech Act 2026 remain available.

43S Information-gathering confined

(1) A power under this Act to compel provider information in connection with this Part may be used only to investigate suspected systemic failure concerning section 43E or 43G, verify compliance with section 43H, or obtain aggregate records under section 43M.

(2) A demand must identify that purpose and be confined to information reasonably necessary for it. It must not seek a ranking model, generation model or training corpus merely to discover disfavoured opinions.

(3) An ordinary end-user must not be compelled under this Part to supply records about another person's expression. Any compulsory access to such records requires independent judicial authority under an existing law, tied to specified section 43E material, and compliance with applicable source protection. This subsection creates no warrant power.

43T No ministerial harm list

The Minister must not make a legislative instrument that:

(a) adds a category of seriously harmful material, material harmful to children, or a like class;

(b) deems a design feature to have a negative behavioural impact for the purpose of a speech restriction; or

(c) requires a user-empowerment tool other than the control required by section 43H.

2 Section 233

Repeal the section, substitute:

233 Implied freedom of political communication

(1) This Act does not apply to the extent (if any) that its operation would infringe the implied freedom of political communication.

(2) A power under this Act to give a notice, make an instrument, register a code or set a standard must be exercised consistently with subsection (1) and with sections 43J and 43JA.

(3) Subsection (1) does not limit section 15A of the Acts Interpretation Act 1901.

(4) In working out whether a provision of this Act, or a thing done under this Act, infringes the implied freedom, a court must take into account:

(a) whether the restriction is precise enough to be provided by law;

(b) whether the restriction is directed to material that is already a criminal offence, or to the closed child -protection list in section 43G; and

(c) the chilling effect of a civil penalty capable of reaching tens of millions of dollars if the restriction is vague.

3 After section 86

Insert:

86A Fast clocks for specified material

(1) If the Commissioner gives a removal notice in respect of Class 1 material, child-sexual exploitation material, a non-consensual intimate image or a synthetic intimate image, the period for compliance is 24 hours beginning when the notice is given, or a shorter period specified in the notice if the Commissioner is satisfied that a shorter period is necessary to prevent further distribution to a child.

(2) A search engine service or an app distribution service given a notice in respect of a service whose primary purpose is the generation of synthetic intimate images of children, or the non-consensual generation of synthetic intimate images of adults, must take reasonable steps to stop distributing the link or the application within 24 hours.

(3) This section does not authorise a notice that does not comply with section 43M.

4 Application of existing schemes

Existing schemes in Parts 5, 6, 7, 8 and 9 of the Online Safety Act 2021 continue subject to sections 43J to 43MA and 233. A content restriction must identify section 43E material or, for a child-only access restriction, section 43G material. This item does not add a category or dispense with an existing scheme's preconditions. Part 4A social-media minimum-age requirements are not amended by this item.

Schedule 2-Application, saving and transitional

1 Definitions

In this Schedule, commencement day means the day Schedule 1 commences.

2 Duty applies to conduct after commencement

Sections 43D, 43F and 43H of the Online Safety Act 2021, as inserted by this Act, apply to conduct engaged in on or after the commencement day.

3 Existing notices

A notice given under the Online Safety Act 2021 before the commencement day continues in force according to its terms, but is void from the commencement day to the extent that it relies on a category outside section 43E or 43G, or requires general adult removal solely on a section 43G ground. Any surviving obligation must satisfy sections 43JA and 43M; the Commissioner may issue a replacement compliant notice under an available power.

4 No revival of Digital Duty of Care draft

This Act does not enact, validate or give any legal effect to the Exposure Draft of the Online Safety Amendment (Digital Duty of Care) Bill 2026 released on 8 September 2026.

5 Preparation

The Commissioner and a person responsible for a covered online service may do anything necessary or convenient to be done, before the commencement day, to prepare for sections 43D, 43F and 43H.

6 Review

The Minister must cause a review of the operation of Part 3A of the Online Safety Act 2021 to be commenced within 3 years after the commencement day, and must table the report in each House of the Parliament within 15 sitting days of receiving it.

7 Coordination and order of commencement

(1) This Schedule applies whether the Free Speech Act 2026 commences before or after Schedule 1.

(2) The specific duties, categories, notice procedures and reporting obligations inserted by Schedule 1 operate together with the general rights provisions of the Free Speech Act 2026. Schedule 4 of that Act is a coordination provision and does not replace the lists, create a second reporting duty for the same record, or create a second offence for the same representation.

(3) Before Schedule 1 commences, nothing in the coordination provisions creates a new online power or discontinues an existing one. Existing powers remain subject to the general rights provisions when those provisions commence.

(4) No superseded three-category limit in an earlier policy or memorandum is incorporated into either Act. Policies and explanatory memorandums are not independent sources of coercive power.