THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA
HOUSE OF REPRESENTATIVES

ULTRA-PROCESSED FOOD CONTROL BILL 2026

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister for Health, Disability and Ageing)

Exposure draft for public consultation — not an official Commonwealth paper unless tabled

General outline

Purpose

The Ultra-Processed Food Control Bill 2026 establishes a national control regime for ultra-processed foods. The Bill treats those products as commercial determinants of health. It does not ban them. It requires honest warnings, ends health-halo labelling, restricts marketing to children, sets product standards, creates an independent classifier, and imposes a hypothecated levy.

Ultra-processed foods supply about 42 per cent of Australians' dietary energy. Overweight and obesity have overtaken tobacco as the leading risk factor for burden of disease. Total health spending is in the order of $270 billion. Voluntary partnership and the current Health Star Rating have not reduced population exposure. The Bill is the legislative expression of a determination that further delay is not a responsible option.

What the Bill does

- Defines ultra-processed food in statute, with a marker-ingredient schedule and a rebuttable presumption. Infant formula is carved out.
- Defines designated products as ultra-processed foods that also trip a nutrient threshold, are marketed to children, or carry a health or nutrition claim.
- Requires black octagonal front-of-pack warnings, including an ULTRA-PROCESSED warning even where nutrient thresholds are not exceeded.
- Prohibits the Health Star Rating and nutrition content or health claims on designated products, and stops a Commonwealth agency mandating the current Health Star Rating on ultra-processed food.
- Prohibits child-directed marketing, imposes a duty on digital platforms, bans supply in schools, public hospitals and Commonwealth-funded sport facilities, and regulates supermarket placement and junior-sport sponsorship.
- Authorises tightening nutrient ceilings, requires plain-English additive-purpose labelling, and prohibits the combination of intense sweeteners with sugar after three years.
- Imposes a levy on designated products and credits the proceeds to a Fresh Food Access Fund.
- Directs the Dietary Guidelines review to treat processing as a first-order risk, and caps ultra-processed energy in specified Commonwealth procurement at 15 per cent within three years.
- Establishes the Independent Food Integrity Authority, with a five-year industry-income ban on Board members.
- Provides civil penalties, strict-liability labelling offences, director liability, category suspension, public-interest standing and whistleblower rewards.

Why legislation is required

The Health Star Rating is voluntary, co-designed with industry, and silent on processing. Food Standards Australia New Zealand regulates safety and composition, not formulation strategy. The Partnership Reformulation Program is voluntary and slow relative to the disease curve. State school-canteen rules are uneven. A Commonwealth statute

is required to classify the product class, impose a tax, constrain corporations in trade, and create an independent authority.

Consultation

This exposure draft is released for public consultation. The Government intends to consult State and Territory food Ministers, public-health organisations, consumer organisations, the agricultural sector, and manufacturers. Industry will be heard. Industry will not draft the schedules.

Financial impact statement

The levy is expected to raise a material annual amount once Part 7 commences, scaling with the designated-product base and declining as products reformulate out of designated status. Revenue is fully hypothecated. Establishment of the Authority is a new departmental and administered expense, offset in part by the 10 per cent enforcement allocation from the Fund. No net increase in underlying cash is assumed beyond establishment costs in the first 18 months. A full costing would accompany a Cabinet submission.

Item	Year 1	Year 2	Year 3	Ongoing
Authority establishment and operations	Expense	Expense	Expense	Expense
Levy receipts (Part 7)	Nil	Revenue	Revenue	Revenue
Fresh Food Access Fund outlays	Nil	Expense	Expense	Expense
Net underlying cash (indicative)	Negative (setup)	Broadly neutral	Broadly neutral	Broadly neutral

Impact analysis

A full Impact Analysis would be prepared before introduction. The expected effects are: lower purchases of products high in sugar, sodium, saturated fat and energy, as observed after Chile's warning-label law; reformulation to escape warnings and the levy; higher unit prices for products that remain designated; lower prices, through the Fund, for specified fresh staples in low-income and remote communities; reduced child exposure to branded designated products; and, over a decade, a lower ultra-processed share of dietary energy. Costs fall on manufacturers and importers of designated products and, to the extent not absorbed, on purchasers of those products. Those costs are the point of the instrument.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011.

The Bill is compatible with human rights

The Bill engages the following rights: the right to health (Article 12, International Covenant on Economic, Social and Cultural Rights); the rights of the child (Articles 3, 17 and 24, Convention on the Rights of the Child); the right to freedom of expression (Article 19, International Covenant on Civil and Political Rights), so far as commercial advertising is speech; the right to a fair hearing (Article 14, ICCPR); and the right not to be arbitrarily deprived of property (Article 17, Universal Declaration).

The right to health and the rights of the child support the Bill. Diet-related disease is a leading cause of preventable harm. Children cannot consent to commercial design aimed at them. Warnings, marketing limits and school-sale bans are measures of the kind found compatible in comparable public-health laws, including tobacco control.

Restrictions on commercial advertising and on pack claims are limitations on commercial expression. They are prescribed by law, directed to a legitimate public-health objective, and proportionate. Adults remain free to buy designated products. Political communication is not restricted.

Civil penalties, strict-liability labelling offences and director liability are subject to the Regulatory Powers Act, review in the Administrative Review Tribunal, and the courts. Section 61 provides compensation if the Act would acquire property otherwise than on just terms.

The Bill is therefore compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the Human Rights (Parliamentary Scrutiny) Act 2011.

Notes on clauses

Part 1 — Preliminary

Clause 1 — Short title

Clause 1 provides that the Act may be cited as the Ultra-Processed Food Control Act 2026.

Clause 2 — Commencement

Clause 2 stages commencement so that the Authority exists before classification duties bite, digital-platform duties commence at 6 months, school and institution bans at 12 months, pack warnings and retail-placement rules at 18 months, and the levy on the following 1 July after 12 months. Industry is given time to relabel and reformulate. Children are protected on digital platforms first because that control can be operated without a pack change.

Clause 3 — Objects

Clause 3 states the objects and, in subclause 3(2), a beneficial-construction rule. Where two readings are open, the reading that better protects public health is to be preferred. That instruction is intended to be used under section 15AA of the Acts Interpretation Act 1901 and, where relevant, section 15AB.

Clauses 4 to 6

These are standard preliminary provisions. The Crown is bound but not criminally liable. The Act extends to external Territories. The Criminal Code applies.

Clause 7 — Definitions

Key defined terms are listed. Child is a person under 18, consistent with the tobacco-advertising analogue and with the Convention on the Rights of the Child. Child-directed marketing is an objective "reasonable person" test so that a cartoon on a designated product cannot be defended as brand heritage. Cosmetic additive is listed rather than left to industry usage.

Clause 8 — Constitutional basis

Clause 8 records the heads of power. Part 7 is identified as a law imposing taxation and must originate in the House of Representatives. The corporations power supports duties on trading corporations that manufacture, import or sell designated products. The external affairs power is engaged by the right to health and the rights of the child.

Clause 9 — Concurrent operation

State and Territory school-canteen and inspection laws continue if they can operate concurrently. The Bill sets a national floor, not a ceiling.

Part 2 — Independent Food Integrity Authority

Clauses 10 to 12

The Authority is a separate body corporate. It is not a unit of FSANZ. FSANZ keeps chemical-safety and compositional work. The Authority owns classification, warning criteria, the register, and any surviving Health Star algorithm for foods that are not ultra-processed.

Clauses 13 to 15

The Board is seven members with prescribed disciplines. A cross-parliamentary and Academy selection panel recommends appointments. A five-year ban on industry income is the operational content of independence. A member who acquires a disqualifying relationship vacates office.

Clauses 16 to 19

Ordinary board procedure, a CEO independent of the Minister on classification decisions, and a tightly confined direction power. The Minister may speak to general policy. The Minister may not direct that a named product is not ultra-processed. Directions are published.

Clause 20

Concurrent jurisdiction with the ACCC on claims and child marketing reflects the Australian Consumer Law overlay. An MOU is required so that manufacturers are not run by two uncoordinated enforcement programs.

Part 3 — Classification of products

Clause 21

Clause 21 is the statutory definition. It is operational. It is not an essay on NOVA, but the Authority must have regard to NOVA. Infant formula is excluded because it is already tightly regulated and is not a supermarket snack. A regulation-making power allows genuine staple edge-cases to be excluded without opening a hole in the centre of the category.

Clauses 22 and 23

Schedule 1 is the starting marker list. The Authority must publish a maintained schedule within 90 days. Two markers, or one marker plus an isolate or intense sweetener, raise a presumption. The manufacturer bears the onus. That allocation of onus is deliberate. The firm knows the formulation.

Clause 24

Not every ultra-processed food is a designated product. Designation adds a nutrient-threshold trip, child marketing, or a health claim. A formulated product that makes no claim, is not child-directed and sits under every nutrient threshold still carries the ULTRA-PROCESSED octagon under clause 28, but is not in the levy or claim-ban net unless it is ultra-processed and designated. In practice, a product that is ultra-processed will usually trip designation through clause 24(c) if it wishes to keep a protein or fibre claim, or through clause 24(a) if it is energy dense.

Clarification: clause 28(2)(e) applies the ULTRA-PROCESSED warning to every ultra-processed food that is a designated product. Combined with clause 24, a UPF that makes a health claim is designated even if nutrient-modest. A UPF that exceeds a Schedule 2 threshold is designated even if it makes no claim.

Clauses 25 to 27

The register is the public backbone. False lodgement is an offence. Classification decisions are reviewable.

Part 4 — Warning labels and claims

Clause 28

This is the central duty. The ULTRA-PROCESSED octagon is not optional where the product is designated and ultra-processed. Nutrient octagons stack. The civil penalty is calculated per SKU per distribution week so that a national ranging of an unlabelled product is not cheaper than compliance. A strict-liability offence sits underneath for prosecution of clear cases.

Clause 29 and Schedule 3

The Chilean octagon is adopted because evaluations show purchase and reformulation effects, and because a positive star on an industrial product is the opposite of a warning. Size, placement and “no design-around” rules are statutory so that pack artists cannot shrink the octagon into a decorative motif.

Clauses 30 to 32

A designated product may not wear a Health Star, a protein claim, a fibre claim, or a farm-or-athlete picture used as a health cue. Those devices are why a parent puts a formulated snack into a lunchbox. Removing them is the point.

Clause 33

Clause 33 stops a parallel process mandating the current Health Star algorithm onto ultra-processed food. If stars survive, they survive only on foods that are not ultra-processed, and only with an Authority-owned algorithm.

Part 5 — Marketing and supply restrictions

Clause 34

Child-directed marketing is prohibited in all media. The test is objective. A civil penalty and a knowledge-based offence both apply.

Clause 35

Platforms that already age-gate other content must age-gate designated-product advertising. The diligence standard is aligned with existing online-safety duties so that platforms cannot invent a lower food-advertising standard.

Clause 36

Schools, early-childhood services, public hospitals and Commonwealth-funded sport facilities are out of scope for sale, service and promotion. A clinical-nutrition exception is included. Where the Commonwealth does not itself conduct the school or hospital, clause 36(3) requires reasonable steps through intergovernmental agreement.

Clauses 37 and 38

Checkout and child-eye placement are regulated because placement is marketing. Junior-sport sponsorship by designated-product brands is prohibited. Elite adult sponsorship may continue only for a non-designated product of that brand.

Part 6 — Product standards

Clause 39

Warnings are not a substitute for composition rules. Ceilings tighten every two years for six years. The first instrument is due within 12 months of Assent.

Clause 40

Telling a purchaser that an emulsifier is present is not the same as telling them why it is present. Purpose labelling closes that gap.

Clause 41

Combining intense sweeteners with sugar lets a manufacturer keep the sensory hit while managing a sugar threshold. The combination is prohibited after three years.

Clause 42

A product that tastes of fruit but contains almost no fruit is a health-halo device in flavour form.

Clause 43

Sensory target specifications are the industrial equivalent of a tobacco blending sheet. The Authority may see them immediately. The public may see them after not more than 12 months.

Part 7 — Levy

Clauses 44 to 47

The levy is a tax. It attaches to Australian manufacture as excise and to importation as customs duty, so that domestic and imported products are treated alike. Collection rides on the Taxation Administration Act 1953.

Clauses 48 and 49 and Schedule 4

Hypothecation is statutory. Forty per cent supports fresh staples in the communities that would otherwise feel a designated-product price rise most. Thirty per cent funds school meals that do not depend on a parent's supermarket

choices. Twenty per cent funds independent evaluation. Ten per cent funds enforcement. A product that leaves designated status leaves the levy.

Part 8 — Dietary guidelines and public procurement

Clause 50

The 2013 Guidelines do not name ultra-processed food. Clause 50 does not rewrite the Guidelines in statute. It directs the review body, in public, to treat processing as first-order. The content of the Guidelines remains a scientific document. The silence on processing will not.

Clause 51

The Commonwealth should not purchase the product class it has just regulated, except within a shrinking cap. States may opt into an equivalent cap with funding.

Part 9 — Enforcement

Clauses 52 to 54

Non-compliant stock may be forfeited. Directors who knowingly authorise concealment or child-directed campaigns are on the hook. Three contraventions in 36 months can take a category off the shelf for up to a year.

Clauses 55 to 57

Public-interest standing allows a registered health or consumer organisation to sue. That provision exists because a captured or under-resourced regulator should not be the only plaintiff. Whistleblowers inside manufacturers are protected and may be rewarded from the Fund.

Clauses 58 to 60

Undertakings, infringement notices and the Regulatory Powers Act supply the ordinary Commonwealth enforcement toolkit.

Clause 61

If a court were to find an acquisition of property, compensation is payable. The clause is included to meet paragraph 51(xxxi). It is not an invitation to treat a warning label as an acquisition.

Part 10 — Miscellaneous

Clauses 62 to 66

Standard delegation, regulation-making, statutory review at years six and ten, severability, and a note that the Crown may still be injuncted. The year-six and year-ten reviews are tied to the objects in clause 3, not to the number of industry meetings held.

Schedules

Schedule 1 is an indicative marker list. The Authority's instrument will be the working list. Schedule 2 sets floor thresholds modelled on a strict Latin-American nutrient profile; the Authority may tighten, not loosen. Schedule 3 locks the octagon. Schedule 4 locks the levy architecture and the 20 per cent retail-price floor for a typical designated beverage at commencement.

Notes on related instruments not in this Bill

The Bill does not itself amend the Food Standards Code. A parallel Code amendment package would be required for additive-purpose labelling to sit cleanly beside Standard 1.2.4, and for any consequential change to Standard 1.2.7. The Bill does not itself defeat Food Standards Australia New Zealand Proposal P1067; clause 33 constrains

the outcome if a mandate proceeds. An intergovernmental item will be required for schools and hospitals conducted by States and Territories.

END OF EXPLANATORY MEMORANDUM