2026

Commonwealth Electoral Amendment (Candidate Choice And Political Accountability) Bill 2026

Explanatory Memorandum

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General Outline

The Bill amends the Commonwealth Electoral Act 1918 to ensure that preferences counted in Senate elections are expressly allocated by electors to named candidates. It abolishes above-the-line Senate voting and repeals the statutory rule that treats a party or group preference as consecutive preferences for all candidates in that group.

The Bill preserves the existing proportional representation and quota-based Senate scrutiny. Surplus votes and votes of excluded candidates will continue to transfer, but only to the next continuing candidate personally numbered by the elector.

The Bill introduces rotation of candidate names within Senate groups so that no candidate receives a permanent advantage merely from a party-determined position. Registered party affiliation remains available beside each endorsed candidate.

The Bill also requires registered parties seeking ballot endorsement labels to disclose how candidates were selected. Contested endorsements ordinarily require a secret ballot of eligible party members within the relevant electorate, State or Territory. A person remains free to nominate if these requirements are not satisfied, but the electoral benefit of the party label is withheld.

Finally, the Bill creates an official candidate information service, requires publication of detailed candidate-level election data and provides for an independent review after two general Senate elections under the new arrangements.

Purpose Of The Bill

- Restore direct voter control over every preference attributed to a Senate ballot.
  - Prevent party or group votes from being converted into preferences for candidates not individually selected by the elector.
  - Reduce the electoral value of fixed party ticket positions.
  - Make candidate selection processes transparent and locally participatory.
  - Improve access to comparable information about candidates.
  - Place candidate-level electoral support at the centre of official reporting.

Background

Section 239 of the Commonwealth Electoral Act currently permits a Senate elector to vote either below the line for individual candidates or above the line for parties or groups. Section 272 provides that an above-the-line ballot is taken to have numbered every candidate in each preferenced group consecutively, beginning with the candidate at the top of the first group selected.

This legal construction means that a voter who marks a party box is treated as having expressed candidate preferences that the voter did not individually record. It also gives substantial electoral importance to the order in which a party or group places its candidates.

The Bill removes that construction. Grouping and party affiliation remain as informational aids, but the voting squares appear only beside named candidates. Candidate rotation prevents a fixed ordering from replacing genuine competition for personal support.

Financial Impact

The Bill will involve implementation costs for the Australian Electoral Commission, including ballot redesign and testing, additional printing variants, voter education, information technology changes, the official candidate information service, training and post-election reporting. The precise financial impact is unquantified and should be determined through the ordinary appropriations process following detailed implementation costing by the Commission.

Regulatory Impact

Registered political parties will incur limited compliance costs in conducting and certifying transparent preselections. Candidates will be offered, but not compelled to use, the official candidate information service. The regulatory burden is proportionate to the public benefit received from registered party identification on ballot papers and from participation in publicly administered elections.

Constitutional Basis

Sections 7 and 24 of the Constitution require Senators and members of the House of Representatives to be directly chosen by the people. The Parliament may prescribe federal electoral machinery consistently with those requirements. The Bill regulates ballot design, vote formality, scrutiny, party endorsement information and election reporting. It does not alter the constitutional composition, tenure or qualifications of either House.

The candidate selection provisions are framed as conditions for printing a registered party name beside a candidate, rather than as additional qualifications for nomination or election. A candidate may continue to stand without a party label where a party does not comply.

Notes On Clauses

Clause 1 - Short Title

Clause 1 provides that the Act may be cited as the Commonwealth Electoral Amendment (Candidate Choice and Political Accountability) Act 2026.

Clause 2 - Commencement

Clause 2 provides immediate commencement for the formal provisions, a minimum implementation period for candidate-only Senate voting, and six months for candidate selection and information measures. The delayed commencement gives the Commission time to redesign ballots, modify counting systems, test rotation and educate voters.

Clause 3 - Schedules

Clause 3 is the standard machinery provision giving effect to amendments and repeals in the Schedules.

Clause 4 - Objects

Clause 4 identifies the Bill's central principles: direct candidate choice, abolition of above-the-line preference conversion, rotational ballot order, transparent preselection and candidate-level public information.

Schedule 1 - Candidate-Centred Senate Voting

Items 1 And 2 - Grouping Without Party-Determined Order

Items 1 and 2 preserve the ability of Senate candidates to be grouped while removing the power to request a specified internal order. Grouping remains useful to identify political association. Order is instead governed by the rotational system established by new section 210B.

Item 3 - Removal Of Group Ballot Labelling Request

Item 3 repeals subsection 169(4), which supports printing a party or composite name adjacent to an above-the-line group square. Candidate-level party names remain available under subsection 169(1).

Items 4 To 6 - Rotational Senate Ballots

Item 4 requires candidate order within each group to vary under new section 210B. Item 5 removes the requirement for an above-the-line square. Item 6 requires the Electoral Commissioner to approve and publish a rotational system.

The system must distribute each candidate across group positions substantially equally and distribute ballot variants randomly and substantially equally throughout the relevant jurisdiction. Exact equality is not required where operational realities make it impossible, provided reasonable steps were taken.

Items 7 To 9 - Consequential Removal Of Party Voting Squares And Logos

These items repeal provisions governing party names and logos attached to above-the-line group squares. Party names remain printed beside endorsed candidates, ensuring that affiliation is disclosed without creating a separate party voting target.

Item 10 - Candidate-Only Senate Voting

Item 10 replaces section 239. Electors must number individual candidates in order of preference. At least six candidates must be numbered where more than six contest the election; otherwise all candidates must be numbered.

A number placed against a party heading or other non-candidate matter has no effect. Because the new ballot contains no party voting square, this rule principally protects the integrity of the candidate-only requirement against stray markings.

Items 11 And 12 - Formality And Savings

These items align vote formality with the new candidate-only instructions. A ballot with at least six consecutive candidate preferences is formal where more than six candidates contest. Repeated or missing numbers truncate the effective sequence in the same general manner as existing savings rules.

The clear-intention rule is preserved. The reforms seek direct choice without unnecessarily disenfranchising electors for immaterial marking errors.

Item 13 - Repeal Of Statutory Preference Expansion

Item 13 repeals section 272. That section presently transforms above-the-line group preferences into consecutive preferences for every candidate in the selected groups. Its repeal is the central accountability reform in the Bill.

Items 14 And 15 - Candidate-Level First Preference Count

These items amend the preliminary Senate count so that first preferences are recorded for individual candidates rather than above-the-line groups. Candidate totals will become the primary election-night information transmitted through the electoral administration.

Item 16 - New Senate Ballot Form

Item 16 replaces Form E. The new form contains voting squares only beside candidate names, retains affiliation labels, removes the dividing line and tells electors that preferences transfer only to candidates they number.

Item 17 - Application

Item 17 applies the new ballot rules to Senate elections for which the writ is issued on or after commencement.

Schedule 2 - Transparent Candidate Selection And Information

Item 1 - Candidate Selection Transparency Certificate

New section 169D requires a registered party seeking to print its name beside a candidate to lodge a transparency certificate. The certificate records how endorsement occurred, participation totals, aggregate voting results and central executive intervention.

Where an endorsement is contested, the ordinary rule is a secret ballot of eligible party members enrolled in the relevant federal electorate, State or Territory. The Electoral Commissioner may accept an exception for death, incapacity, withdrawal, disqualification or election timing, but the circumstances must be published.

The provision does not disqualify a candidate. Its consequence is limited to the party identifier printed on the publicly administered ballot. Individual member votes remain secret.

Item 2 - Official Candidate Information Service

New section 181D requires the Commission to provide every candidate with equal space in a uniform public information service. Participation is voluntary. The Commission does not endorse candidate content and may reject only material falling within specified legal or formal categories.

Publication before early voting ensures that electors can compare candidates before casting a ballot. The uniform format reduces the advantage created by unequal campaign resources.

Item 3 - Candidate-Level Election Data

New section 283B requires permanent publication of first preferences, transfers, transfer values and the count at which each candidate is elected or excluded. Human-readable and machine-readable publication supports scrutiny, research and public accountability.

Item 4 - Application

Item 4 applies Schedule 2 to nominations made after commencement.

Schedule 3 - Independent Review

Item 1 - Review After Two General Senate Elections

Schedule 3 requires an independent review after two general Senate elections conducted under the candidate-only system. The review must consider voter comprehension, informality, accessibility, candidate voting patterns, rotation, preselection transparency, administrative cost and scrutiny integrity.

The review must invite public submissions and its report must be tabled in both Houses. This provides evidence for refinement without allowing the core principle of voter-controlled candidate choice to disappear through administrative review.

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 the human rights and freedoms recognised or declared in the international instruments listed in section 3 of that Act.

Overview Of The Bill

The Bill strengthens direct candidate choice in federal elections by abolishing above-the-line Senate voting, requiring voters to preference named candidates, rotating candidate order, improving candidate selection transparency and expanding access to candidate information and results.

Right To Political Participation

Article 25 of the International Covenant on Civil and Political Rights protects the right and opportunity of every citizen to take part in public affairs and to vote and be elected at genuine periodic elections by universal and equal suffrage and secret ballot.

The Bill promotes this right. It ensures that preferences attributed to an elector are choices the elector actually recorded against named candidates. It improves the information available to voters and makes the pathway by which party candidates obtain endorsement more transparent.

Freedom Of Expression And Association

The Bill engages freedom of political expression and association because it changes the manner in which registered parties and endorsed candidates appear on ballots and requires disclosure of selection processes.

Any limitation is reasonable, necessary and proportionate. Parties remain free to form, campaign, endorse candidates and display their registered name beside compliant candidates. Electors remain free to support every candidate endorsed by one party. The Bill removes only the separate party voting mechanism that creates candidate preferences without individual candidate markings.

Privacy

Preselection certificates disclose aggregate participation and results, not the vote of an individual party member. Candidate participation in the official information service is voluntary. Any engagement with privacy is limited to information reasonably necessary for electoral transparency and is accompanied by protection for secret ballots.

Conclusion

The Bill is compatible with human rights because it advances genuine and equal political participation and imposes only limited, transparent and proportionate requirements upon registered parties seeking ballot privileges.

Sources And References

- Australian Constitution, sections 7 and 24: https://www.aph.gov.au/-/media/05_About_Parliament/52_Sen/523_PPP/2023_Australian_Constitution.pdf
  - Commonwealth Electoral Act 1918, compilation in force on 1 July 2026: https://www.legislation.gov.au/C1918A00027/latest/text
  - Australian Electoral Commission, Voting in the Senate: https://www.aec.gov.au/voting/how_to_vote/voting_senate.htm
  - Australian Electoral Commission, How the Senate result is determined: https://www.aec.gov.au/voting/counting/senate_count.htm
  - Australian Electoral Commission, Preferential voting: https://www.aec.gov.au/learn/preferential-voting.htm
  - Attorney-General's Department, Right to take part in public affairs and elections: https://www.ag.gov.au/rights-and-protections/human-rights-and-anti-discrimination/human-rights-scrutiny/public-sector-guidance-sheets/right-take-part-public-affairs-and-elections
  - International Covenant on Civil and Political Rights, article 25: https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights
  - Human Rights (Parliamentary Scrutiny) Act 2011: https://www.legislation.gov.au/C2011A00186/latest/text