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The Parliament of the Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

Online Safety Amendment (Digital Duty of Care) Bill 2026

No. , 2026

(Private Member)

A Bill for an Act to amend the Online Safety Act 2021 to impose a duty of care confined to specified illegal material and a closed child-protection list, to confer a durable adult ranking opt-out, to forbid viewpoint categories and ministerial expansion of restricted classes, and for related purposes

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The Parliament of Australia enacts:

Part 1—Preliminary

1 Short title

This Act is the Online Safety Amendment (Digital Duty of Care) Act 2026.

2 Commencement

(1) Each provision of this Act specified in column 1 of the following table commences, or is taken to have commenced, in accordance with column 2 of the table.

Column 1 Provisions	Column 2 Commencement	Column 3 Date/Details
1 Sections 1 to 4 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	
2 Schedule 1	The 28th day after this Act receives the Royal Assent.	
3 Schedule 2	The day this Act receives the Royal Assent.	
Note	*This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with later amendments.*	

(2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Objects

The objects of this Act are:

(a) to prevent the distribution, by means of a covered online service, of specified illegal material, with particular force against child-sexual exploitation material, non-consensual intimate images including synthetic intimate images, and already-criminal threats;

(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 adult users of large social media services a durable statutory right to switch off personalised engagement ranking;

(d) to preserve the implied freedom of political communication and Australia's obligations under articles 17, 18 and 19 of the International Covenant on Civil and Political Rights and articles 13 and 16 of the Convention on the Rights of the Child by forbidding viewpoint categories and ministerial expansion of restricted classes;

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

Note: Nothing in this Act authorises the suppression of a political, religious, scientific or moral opinion.

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 duty of care

Online Safety Act 2021

Part 1 of Schedule 1—Preliminary and coverage

1 After Part 3

Insert:

Part 3A—Digital duty of care

Division 1—Preliminary

25A 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. Nothing in this Part authorises the suppression of a political, religious, scientific or moral opinion. Restricted categories live in this Act. They cannot be added by instrument.

25B 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 25G.

covered online service means a social media service, a relevant electronic service that hosts user-generated material visible to other end-users, 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. It does not include a service that only manufactures, supplies, maintains or installs equipment.

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 25E.

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 employee, contractor, officer or other individual in a position of day-to-day operational control.

political, religious, scientific or moral opinion includes an opinion about sex, gender, crime, religion, medicine, public administration or the conduct of a regulator.

synthetic intimate image means an intimate image of a person generated or altered by a computer so that the person appears nude or engaged in a sexual act, whether or not the person so appeared.

25C This Part does not apply to private adult correspondence

Nothing in this Part requires a person responsible for a covered online service to take action in respect of a lawful private communication solely between consenting adults that is not recommended to any other end-user and is not made available on a public or group channel.

Note: Public posts, ranking, search, group spaces and generated outputs remain in.

Part 2 of Schedule 1—Illegal material duty

Division 2—Illegal material

25D 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, for the purposes of subsection (1), include functioning disruption of known child-sexual exploitation material, rapid action on a valid notice that specifies a paragraph of section 25E, and the absence of wilful blindness. They do not include a duty to pre-empt a political, religious, scientific or moral opinion.

(3) A failure to take reasonable steps is systemic if it is repeated, widespread or the product of a decision not to maintain the steps mentioned in subsection (2). A single missed item is not, of itself, a contravention.

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

Note: The civil penalty is set by section 25Q. It attaches to systemic failure, not to a single missed item. It is imposed by a court.

25E 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 as already defined in this Act;

(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, a threat of rape, 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.

Part 3 of Schedule 1—Closed child-protection list

Division 3—Children

25F 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.

25G 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) The list in subsection (1) is closed. It cannot be added to by legislative instrument, industry code, standard, notice or ministerial satisfaction.

(3) Subsection (1) does not include news, current affairs, memoir, research, recovery material, sex-education or health information, or a political, religious, scientific or moral opinion, merely because the material discusses sex, suicide, eating, crime, gender or religion.

Note: Instruction is not discussion. Classification language is used so that a speaker can regulate conduct against the list.

Part 4 of Schedule 1—Adult ranking control

Division 4—Ranking

25H Durable ranking opt-out

(1) A person responsible for a large social media service must offer every end-user in Australia who is 16 years or older a durable control that lets the end-user choose between personalised engagement ranking and a feed ordered by reverse-chronological order or by the end-user's express follow or subscribe choices.

(2) The choice persists until the end-user changes it. It must not reset after an update, a login, or a redesign.

(3) The service must not use a dark pattern, default reset or other design to push the end-user back into engagement ranking.

(4) The Commonwealth must not, by this Act or by an instrument under this Act, prescribe a replacement ranking, a list of favoured sources, or the content of the chronological or follow-only feed.

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

Note: This section is the statutory right. It is not a ministerial tool-specification power.

Part 5 of Schedule 1—Speech lock and notices

Division 5—Lock

25J Speech lock

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

(2) This Act does not apply to the extent that it would infringe the implied freedom of political communication.

(3) A rule, standard, code, notice, direction or instrument must not create a category of restricted material. Categories live in sections 25E and 25G.

(4) A notice or direction that does not specify the paragraph of section 25E or 25G relied on is void.

(5) A person who represents that a request is a legal demand under this Act when it is not commits an offence.

Penalty: 120 penalty units.

Note: Informal requests dressed as legal demands are the existing practice this subsection closes.

25K No ministerial or Commissioner expansion of restricted classes

The Minister and the Commissioner must not, by legislative instrument or otherwise, determine additional material or conduct to be illegal material, material on the closed child-protection list, or a design feature that a person responsible for a covered online service must disable.

25L No environment duty

This Part does not require a person responsible for a covered online service to ensure a safe online environment, to manage an atmosphere, or to prevent material or conduct that a user of the service does not experience.

25M Form of notices

(1) A removal notice, a link-deletion notice or a remedial direction under this Part must:

(a) identify the material or system by a description a recipient can use;

(b) specify the paragraph of section 25E or 25G relied on;

(c) state the facts that establish a direct and immediate connection between the material or system and the paragraph specified; and

(d) state that the recipient may apply for review, and that a speech-affecting direction is stayed under section 25R.

(2) A notice that does not comply with subsection (1) is void.

Part 6 of Schedule 1—Enforcement, review and reporting

Division 6—Penalties and powers

25Q Civil penalties

(1) The maximum civil penalty for a systemic contravention of subsection 25D(1) or 25F(1) by a body corporate is 30,000 penalty units.

(2) The maximum civil penalty for a contravention of subsection 25H(1) by a body corporate is 6,000 penalty units.

(3) A civil penalty under this Part is imposed by a court. It is not payable on an infringement notice.

(4) No civil penalty under this Part is payable by an individual merely because the individual is in a position of day-to-day operational control of a covered online service.

Note: The 60,000-unit atmosphere penalty in the 8 September 2026 exposure draft is not enacted.

25R Review and stay

(1) A person given a notice or direction under this Part may apply to the Administrative Review Tribunal for review of the decision.

(2) An application for review of a notice or direction that requires the removal, suppression, demonetisation, down-ranking or refusal to generate material that is not illegal material stays the operation of the notice or direction until the Tribunal determines the application, unless the Tribunal orders otherwise on the ground that the material is Class 1 material or a non-consensual intimate image.

(3) The Commissioner must not publish a warning that names an end-user or that recites a political, religious, scientific or moral opinion.

25S Information-gathering confined

(1) The Commissioner may require a person responsible for a covered online service to produce documents, and may examine a person on oath, only if the Commissioner reasonably suspects a systemic failure against section 25E.

(2) Subsection (1) does not authorise inspection of a ranking model, a moderator file or an end-user's correspondence for the purpose of scoring a political, religious, scientific or moral opinion.

25T Covert testing confined

(1) The Commissioner may assume a fictitious identity only for the purpose of testing whether a covered online service is taking the reasonable steps required by section 25D in respect of Class 1 material or a non-consensual intimate image.

(2) Subsection (1) does not authorise the generation of artificial-intelligence content other than a test file that is not published to any end-user other than the Commissioner.

(3) Subsection (1) has effect subject to a law of a State or Territory that would, apart from this subsection, apply to the conduct. It does not override such a law.

(4) This section does not authorise an approved researcher or any other person to assume a fictitious identity.

25U No researcher access to behavioural graphs

The Commissioner must not require a person responsible for a covered online service to give an approved researcher, a university or any other person access to an end-user's behavioural data, political graph, private correspondence or identity information.

25V Transparency reports

(1) The Commissioner may require a person responsible for a covered online service that has at least 1 million active Australian accounts to publish, once in each calendar year, aggregate statistics of the following kind only:

(a) the number of notices received under this Part that specified a paragraph of section 25E;

(b) the number of known child-sexual exploitation hashes matched;

(c) the median time taken to action a valid notice under section 25M.

(2) A report under subsection (1) must not include reasons for the removal of an account, a list of "kinds of harms", or information that identifies an end-user or a member of staff.

25W Australian point of contact

(1) The Commissioner may require a person responsible for a covered online service that has at least 1 million active Australian accounts to nominate an address for service in Australia of notices under this Part.

(2) Subsection (1) does not require the person to employ an individual who is ordinarily resident in Australia.

25X Annual report of government requests

A person responsible for a large social media service must, once in each calendar year, publish the number of requests received from a Commonwealth, State or Territory officer to remove, suppress or down-rank material other than under a notice that complies with section 25M.

Part 7 of Schedule 1—Clocks for specified material

2 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 received.

(2) A search engine service or an app distribution service given a notice in respect of an application or website 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) Subsection (2) does not apply to an application or website merely because it is predominantly used, among other uses, to generate such images.

(4) This section does not authorise a notice that does not comply with section 25M.

(5) This section does not authorise removal of material without a fresh complaint merely because material of a similar kind was removed in the previous 6 months.

3 Section 233 (implied freedom)

Repeal the section, substitute:

233 Implied freedom of political communication and article 19

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

(2) This Act is to be interpreted consistently with articles 17, 18 and 19 of the International Covenant on Civil and Political Rights and articles 13 and 16 of the Convention on the Rights of the Child.

(3) A power under this Act must not be exercised for the purpose of suppressing a political, religious, scientific or moral opinion.

4 Application of existing schemes

To avoid doubt, Parts 5, 5A and 9 of the Online Safety Act 2021 continue to apply subject to sections 25J, 25K, 25L, 25M and 233 as substituted by this Schedule.

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 25D, 25F and 25H 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 of material that is not illegal material or material on the closed child-protection list.

4 No effect given to the 8 September 2026 exposure 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 25D, 25F and 25H.

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.

Circulated by authority of Alecomm (Australian Legislative Ethics Commission). Model private member Bill. Not an exposure draft of the 8 September 2026 text.