2026

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

AUSTRALIAN FOOD SOVEREIGNTY, REGIONAL PROCESSING AND FAIR MARKET ACCESS BILL 2026

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister for Agriculture, Fisheries and Forestry)

EM-AFS 2026/01 · September 2026

This memorandum gives effect to Australian Food Sovereignty, Regional Processing and Fair Market Access Policy AFS-P 2026/01. It explains a principal Commonwealth Bill. It is not an exposure draft and it is not a model-only paper.

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General outline

Purpose

The purpose of the Bill is to treat Australia's capacity to process its own agricultural production as an element of national economic security, and to make that treatment legally operative.

The Bill would establish a National Food Processing Security Register and a National Food Security Commissioner; authorise designation of strategic processing facilities and dominant processors; protect service-kill and independent processing access; impose transparent pricing, grading and anti-retaliation rules on major buyers; add a food-security and independent-access test to acquisitions of strategic food-processing assets; establish a Regional Processing and Sovereign Food Infrastructure Fund; authorise time-limited emergency continuity orders on just terms; require proportionate administration of safety and welfare standards; direct domestic gas-security arrangements toward essential food and agricultural manufacturing; and confer investigation and structural-remedy powers where vertical integration has closed independent access.

The central policy principle, restated as Principle 2 of Schedule 1, is that a processing facility that remains physically open but becomes unavailable to independent producers may cease to perform an effective competitive or food-security function. Access is assessed as a separate fact from ownership and from whether the plant is still running.

Why the Bill is required

Australia can grow cattle, sheep, pigs, poultry, grain and milk and still lose food sovereignty if the plants that turn that production into food are owned, rationed or closed by a handful of firms. Ownership of the paddock is not sovereignty if the kill floor, the vat, the cold room and the gas contract sit somewhere else.

Red-meat processing is highly concentrated at national and regional level. In many catchments a producer has one realistic buyer. Service-kill, private-kill and toll-processing are the competitive safety valve that lets an independent producer stay in a branded or direct-to-consumer trade without selling the animal to the plant that competes with that brand. Withdrawal of a service kill can finish a competitor while the plant itself stays open. Existing competition law treats that, if it treats it at all, as a private commercial decision.

When a regional plant closes, the loss is not confined to the payroll inside the fence. Breeders change joining dates. Feed contracts crystallise as losses. Livestock travel further. Animal-welfare risk rises. Local butchers and farm-gate brands lose a kill slot. Skilled labour leaves town. Specialist equipment is sold offshore or cut up. Rebuilding later costs a multiple of what preservation would have cost. Principle 8 of Schedule 1 states the consequence: prevention is cheaper than reconstruction.

Public money has gone to major processors without durable conditions on continued operation, independent access or repayment on early closure. Fixed compliance cost that does not scale will close a micro-abattoir or a two-day-a-week service kill while leaving a multinational plant comparatively untouched. Fertilizer, agricultural chemicals, feed manufacture and process heat depend on domestic gas and on plants that can disappear as fast as an abattoir.

The Competition and Consumer Act 2010, the Foreign Acquisitions and Takeovers Act 1975 and State food-safety laws do not, separately or together, do this work. They do not keep a register of who can still get a kill slot. They do not treat withdrawal of service-kill as a food-security event. They do not impose a ten-year food-security test on an acquisition. They do not require a Minister to explain why a plant that took Commonwealth money then closed. The Bill fills those gaps. It does not replace those laws.

Meat processing is the largest and most urgent case under this Bill. The same rules apply to poultry, pork, dairy, prescribed horticultural packing, cold storage, rendering, feed manufacture and fertiliser plants. A meat-only short title would leave those other strategic assets without a food-security test.

The companion policy is AFS-P 2026/01, issued 19 September 2026.

Overview of the Bill

Part 1 sets short title, commencement (Royal Assent for machinery; the 90th day for operational provisions), objects and constitutional application.

Part 2 defines working terms, including food-security infrastructure, service kill, withdrawal of service, dominant processor, strategic processing facility, independent producer and reasonable processing distance.

Part 3 requires a public National Food Processing Security Register, 14-day mandatory reporting by prescribed processors, and an annual capacity assessment that must propose action rather than further review.

Part 4 establishes the National Food Security Commissioner, protects the outcome of an individual assessment from ministerial direction, and provides for strategic-facility designation, six-month closure notice and a food-security impact assessment.

Part 5 recognises service-kill as essential market infrastructure, prohibits specified forms of discriminatory access, regulates withdrawal of an existing service kill at a strategic facility, and authorises ACCC designation of dominant processors and fair access orders.

Part 6 requires price grids, forbids retrospective rewriting of the bargain, gives producers grading rights, requires reasonable notice of volume cuts, creates a damages path for unjustified cancellation, prohibits commercial retaliation and authorises collective bargaining without that bargaining itself contravening Part IV of the Competition and Consumer Act 2010.

Part 7 adds a National Food Security and Independent Access Test to acquisitions of strategic food-processing assets, forbids approval on the strength of a voluntary expectation that a service will be kept, and requires the Treasurer to apply an express food-security list when a foreign person proposes to acquire a strategic facility.

Part 8 establishes the Regional Processing and Sovereign Food Infrastructure Fund, prefers distributed and Australian ownership, and forbids blank-cheque assistance to major processors.

Part 9 authorises a time-limited food-processing emergency declaration, continuity orders of not more than 12 months, just-terms compensation for any acquisition of property, and Commonwealth facilitation of public, cooperative or alternative operation where a strategic facility would otherwise close.

Part 10 requires a small and regional processor impact test before new Commonwealth requirements, preserves substantive safety and welfare standards, and forbids regulatory mechanisms that entrench dominant processors where a less anti-competitive equivalent is available.

Part 11 directs domestic gas-security arrangements toward essential food and agricultural manufacturing and requires a sovereign-capability restoration plan if Australia becomes critically import-dependent on an essential agricultural input.

Part 12 authorises ACCC investigation of vertical control of a food-supply chain, court-ordered structural remedies, and a serial-acquisition rule covering the preceding ten years.

Part 13 sets corporate civil penalties at the greater of $50 million, three times the benefit or 30 per cent of adjusted turnover, and provides for officer liability, injunctions, compensation and whistleblower protection.

Part 14 requires an annual Australian Food Sovereignty Statement, a closure accountability statement where a funded strategic facility closes within ten years, and a five-year statutory review of measurable outcomes.

Part 15 deals with interaction with other laws, regulations and the binding application of Schedule 1 principles.

Schedule 1 sets eight National Food Security and Independent Access Principles to which every person exercising a power under the Act must have regard.

Financial impact statement

The Bill would have a moderate underlying-cash impact. The material items are the office of the Commissioner and the Register; the annual capacity assessment; administration of designations, impact assessments and continuity orders; and appropriations to the Fund. Penalty revenue and recovered assistance are not scored as an offset to those costs.

Fund appropriations are a matter for the Budget process. The Bill creates the special account and the eligibility and condition rules. It does not itself appropriate a dollar amount.

Just-terms compensation under clause 38 would be a contingent liability. Continuity orders are intended to be used only where reasonably practicable and only for a limited period. The alternative fiscal cost of reconstructing a demolished regional plant is expected, in any individual case, to exceed the cost of a time-limited continuity payment.

Impact analysis

The Bill is directed at firms with substantial processing or buyer power and at operators of designated strategic facilities. Independent producers gain access rights, pricing transparency, a damages path and protection from retaliation. Small and regional processors gain a proportionality test before new Commonwealth requirements and access to the Fund on a distributed-ownership preference.

Dominant processors and major buyers face reporting, notice, non-discrimination, grid-publication and anti-retaliation duties, and may be subject to fair access orders or acquisition conditions. Those duties are the price of controlling infrastructure that the Parliament treats as national economic security infrastructure.

Consumers are not the direct regulatees. They benefit if regional capacity, independent brands and emergency processing survive. Food-safety, worker-safety, environmental and animal-welfare standards are expressly preserved. The Bill does not set livestock prices and does not nationalise the meat industry.

Foreign investors remain able to acquire food-processing assets subject to the existing FIRB regime plus the express food-security list in clause 31. The Bill does not impose a nationality ban.

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, and is compatible with, the following rights as they are recognised in the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). Each treaty is referred to by its full name before any short name is used.

Right to an adequate standard of living, including adequate food — Article 11 of the International Covenant on Economic, Social and Cultural Rights

Article 11 of the International Covenant on Economic, Social and Cultural Rights recognises the right of everyone to an adequate standard of living, including adequate food, and the fundamental right of everyone to be free from hunger. The Bill is directed at preserving the domestic capacity to turn Australian production into food. That is a measure for the realisation of Article 11. Emergency continuity orders and the Fund are the operative tools.

Right to work and to gain a living by work — Articles 6 and 7 of the International Covenant on Economic, Social and Cultural Rights

Articles 6 and 7 of the International Covenant on Economic, Social and Cultural Rights recognise the right to work and to just and favourable conditions of work. Regional processing employment is an express object and an express assessment criterion. The Bill does not guarantee any particular job. It makes the loss of a regional plant a matter the Commonwealth must face before the plant disappears.

Right to property and acquisition on just terms

Paragraph 51(xxxi) of the Constitution requires that an acquisition of property by the Commonwealth be on just terms. Clause 38 states the same rule for Part 9. Continuity orders are time-limited and must be reasonably practicable. They are a regulation of the use of infrastructure that the operator has been designated as holding for a public-security purpose, with compensation if that regulation crosses into an acquisition. Fair access orders regulate the terms on which a dominant holder of essential infrastructure deals with third parties. They are modelled on access regimes that Australian courts have not treated as acquisitions of property when they leave the owner with the asset and a regulated return.

Right to a fair hearing — Article 14 of the International Covenant on Civil and Political Rights

Article 14 of the International Covenant on Civil and Political Rights requires a fair hearing in the determination of rights and obligations. Civil penalties, injunctions, compensation and structural remedies are conferred on the Federal Court of Australia. Designations of strategic facilities and of dominant processors are legislative instruments and are subject to parliamentary disallowance. Impact assessments and annual statements are published. These are the hearing and publicity settings the Bill relies on.

Right not to be subjected to arbitrary interference with privacy — Article 17 of the International Covenant on Civil and Political Rights

Article 17 of the International Covenant on Civil and Political Rights protects against arbitrary interference with privacy. The Register will hold ownership, capacity and access facts about commercial facilities. Clause 7(2) withholds trade secrets and contract-level pricing. Clause 7(3) prevents that withholding from being used to hide the fact of ownership, foreign control, Commonwealth money or an announced closure. The balance is deliberate and is not arbitrary.

Freedom of association — Article 22 of the International Covenant on Civil and Political Rights

Article 22 of the International Covenant on Civil and Political Rights protects freedom of association. Clause 26 authorises collective bargaining by independent agricultural producers. That is a facilitation of association, not a restriction of it.

Rights that are limited, and why the limits are compatible

The Bill limits the freedom of a dominant processor or strategic-facility operator to refuse independent access, to withdraw a service kill without notice, to close without assessment, and to take public money without conditions. Those limits are prescribed by law. They pursue the legitimate aims of food security, regional livelihood and workable competition. They are proportionate: notice periods can be shortened where compliance is genuinely impossible; continuity orders are capped at 12 months; just terms are express; substantive safety and welfare standards are untouched; the Bill does not force every plant to offer a service kill — it regulates withdrawal of an existing service at a strategic facility and authorises access orders where control of infrastructure is restricting competition.

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 provides that the Act is the Australian Food Sovereignty, Regional Processing and Fair Market Access Act 2026.

Clause 2 provides for commencement. Sections 1 to 4 and 59 commence on Royal Assent so that the regulation-making power and the objects are available immediately. Sections 5 to 58 and 60 and Schedule 1 commence on the 90th day after Royal Assent. The delay is to allow appointment of the Commissioner, prescription of processors, retailers and distances, and initial population of the Register.

Clause 3 states the objects. Paragraph (o) is the access rule in statutory form: loss of access can threaten food security even where the facility remains operational. Paragraph (p) characterises food security, sovereign capability, regional resilience and independent market access as matters of national economic security.

Clause 4 applies the Act to the fullest extent of Commonwealth power, including the corporations power, the trade and commerce power, the foreign-corporations power, financial assistance, Territories, taxation, telecommunications and data reporting, external affairs where relevant, and incidental power. The drafting is a coverage clause, not a concession that any one head is insufficient.

Part 2—Interpretation

Clause 5 sets the working definitions. Food-security infrastructure is a closed list plus a regulation power, so that cold storage, rendering, feed plants and fertiliser plants sit inside the same regime as abattoirs. Service kill is defined by retained ownership, not by a trade name. Withdrawal of service includes a commercial-terms change that makes access commercially impossible, so that a posted fee of a ruinous amount is treated as a withdrawal. Reasonable processing distance is left to regulations so that species, geography and welfare can be given their proper weight.

Part 3—National Food Processing Security Register

Clause 6 requires the Minister to establish and maintain a public Register. The duty is on the Minister; administration will sit with the Commissioner under clause 10.

Clause 7 lists what the Register must identify. Subsection (2) protects genuine trade secrets and contract-level pricing. Subsection (3) stops that protection being used to hide ownership, foreign control, Commonwealth money, access facts or an announced closure. Those facts are public-interest facts.

Clause 8 requires a prescribed processor to notify the Commissioner within 14 days of specified food-security events, including termination of a contract representing 15 per cent or more of annual throughput. Subsection (2) makes the duty a civil penalty provision.

Clause 9 requires an annual capacity assessment. Subsection (2) forbids an assessment that consists solely of recommendations for further review. The Parliament is entitled to a document that names the gap and the proposed action.

Part 4—Strategic processing facilities

Clause 10 establishes the office of National Food Security Commissioner, confers administration of Parts 3, 4, 8 and 9, requires cooperation with the ACCC and the Treasurer, and provides for a Governor-General appointment of not more than five years.

Clause 11 protects the outcome of an individual assessment from ministerial direction. Policy settings remain with the Minister. The finding on a particular plant does not.

Clause 12 authorises designation of a strategic processing facility against a list of material-effect criteria. A designation is a legislative instrument and is disallowable.

Clause 13 requires six months' written notice before closure, mothballing, a 25 per cent or greater capacity cut, or a material withdrawal of independent access. A shorter period may be approved only where compliance is genuinely impossible. The duty is a civil penalty provision.

Clause 14 requires a food-security impact assessment before closure or material reduction, covering alternatives, distance, independent access, transport, welfare, concentration, employment, direct-to-consumer producers, local viability and whether temporary intervention is required. A summary must be published.

Part 5—Service-kill and independent processing access

Clause 15 is the parliamentary recognition that service-kill and independent processing access are essential market infrastructure, and that withdrawal of service-kill may be a food-security event whether or not the plant closes.

Clause 16 prohibits eight specified forms of discriminatory or exclusionary conduct by a dominant processor or strategic facility that offers service-kill or contract-processing. The list is closed. It is a civil penalty provision. It does not require every plant to offer a service kill.

Clause 17 conditions withdrawal of an existing service kill at a strategic facility on six months' notice, notification, reasons, identification of affected producers, participation in an impact assessment, and compliance with any access or continuity order. It is a civil penalty provision.

Clause 18 authorises the ACCC to designate a dominant processor against market-share, vertical-integration, alternative-access and serial-acquisition criteria. A designation is a legislative instrument.

Clause 19 authorises a fair access order where control of processing infrastructure is materially restricting competition. Contravention of an order is a civil penalty provision.

Part 6—Farmer and supplier market protections

Clause 20 requires a prescribed processor to publish or provide a price grid covering every material condition that affects the amount paid. Hidden deductions are the mischief.

Clause 21 forbids retrospective alteration of price, grade, deduction, specification or payment term unless required by law or agreed in writing after full disclosure.

Clause 22 entitles a producer, where payment depends on an assessment, to the assessment, the supporting data, a challenge to manifest error, independent reassessment where reasonably practicable, and reasons for material deductions.

Clause 23 forbids a material reduction of agreed volume without reasonable notice, measured against production cycles, growth periods, breeding, feed, labour, utilisation, perishability, dependence and alternative buyers.

Clause 24 gives a supplier a statutory damages path for reasonably foreseeable losses where a dominant purchaser terminates or substantially reduces a committed volume without reasonable commercial justification or sufficient notice. Other rights are preserved.

Clause 25 prohibits retaliation for using a regulator, Parliament, collective bargaining, a grading challenge, an investigation or a right under the Act. Retaliation is defined by effect as well as by form.

Clause 26 authorises collective bargaining by independent producers on listed supply matters. Subsection (2) is a limited authorisation for the purposes of Part IV of the Competition and Consumer Act 2010. The note records that boycotts are not authorised.

Part 7—Food-security test for acquisitions

Clause 27 provides that an acquisition involving a strategic food-processing asset must not be approved solely because it satisfies general competition requirements. It must also satisfy the National Food Security and Independent Access Test.

Clause 28 lists the matters the ACCC must consider, including effects over not less than ten years and whether enforceable structural conditions are required.

Clause 29 forbids approval on the basis that the acquirer is merely expected to keep an existing service because it is presently commercially advantageous. If continued access is material to approval, it must be an enforceable condition.

Clause 30 lists available conditions, including continued service-kill, minimum capacity, a closure prohibition for a prescribed period, divestiture and ring-fencing.

Clause 31 requires the Treasurer, where a foreign person proposes to acquire a strategic processing facility, to consider an express food-security list. Subsection (2) states that the clause is additional to the Foreign Acquisitions and Takeovers Act 1975.

Part 8—Regional Processing and Sovereign Infrastructure Fund

Clause 32 establishes the Fund as a special account under the Public Governance, Performance and Accountability Act 2013.

Clause 33 lists eligible projects, from regional and micro-abattoirs through cold storage and refrigerated freight to fertiliser plants and the rehabilitation of facilities at risk of permanent loss.

Clause 34 requires a practicable preference for cooperatives, Australian SMEs, local and regional ownership, community and Indigenous enterprises, producer-owned infrastructure, and projects that introduce genuine competition into concentrated markets.

Clause 35 forbids blank-cheque assistance to a major processor above a prescribed amount. Conditions must cover continued operation, employment, capacity, independent access, service-kill where applicable, repayment on breach, a ban on removing funded equipment from Australia without approval, and disclosure of material change.

Part 9—Emergency food-security intervention

Clause 36 authorises a regional or national food-processing emergency declaration where loss or withdrawal of a facility creates a substantial risk to supply, welfare, production, independent viability, national capability or regional economic security. A declaration is a legislative instrument, lasts not more than 12 months, and may be renewed once only.

Clause 37 authorises a continuity order of not more than 12 months requiring specified operations, preservation of equipment, alternative-operator access or cooperation with a transfer. Contravention is a civil penalty provision. The power is available only while a declaration is in force and only where reasonably practicable.

Clause 38 is the just-terms clause for any acquisition of property within paragraph 51(xxxi) of the Constitution effected by Part 9.

Clause 39 authorises the Commonwealth to facilitate temporary public operation, cooperative purchase, lease, community or employee ownership, Australian private acquisition, or another arrangement that preserves essential capacity, where a strategic facility would otherwise permanently close.

Part 10—Regulatory proportionality

Clause 40 requires a published impact test before a new Commonwealth requirement that would materially affect food processors, covering fixed cost, unit cost, capital, burden, regional and service-kill effects, competition, and whether the requirement would advantage dominant corporations.

Clause 41 states that nothing in Part 10 permits reduction of substantive food-safety, worker-safety, environmental or animal-welfare standards, and requires proportionate methods of demonstrating the same standard where practicable.

Clause 42 forbids a regulatory mechanism that materially entrenches dominant processors if an equally effective and less anti-competitive mechanism is reasonably available.

Part 11—Domestic energy and agricultural manufacturing

Clause 43 requires domestic gas-security arrangements to take account of essential Australian food and agricultural manufacturing.

Clause 44 authorises designation of fertiliser plants, food-processing facilities, agricultural-input manufacturers and other prescribed facilities as essential domestic manufacturing facilities.

Clause 45 requires that, in a Commonwealth domestic gas reservation or security mechanism, essential domestic manufacturing facilities have reasonable access to competitively priced Australian gas before avoidable supply is exported.

Clause 46 requires a standing assessment of domestic fertiliser and input capacity and a sovereign-capability restoration plan if Australia becomes critically import-dependent on an essential agricultural input.

Part 12—Structural market power

Clause 47 authorises the ACCC to investigate whether vertical integration or accumulated ownership enables material control of production, feedlots, processing, wholesale, logistics, retail access or competing producers' access to essential infrastructure.

Clause 48 authorises the Federal Court, on ACCC application, to order divestiture, separation, access, a ban on specified exclusivity, restrictions on future acquisitions, or other structural relief where structural concentration has produced a substantial and enduring restriction on competition or independent access.

Clause 49 requires regulators and courts, when considering concentration in a food-processing market, to look at the cumulative effect of acquisitions over the preceding ten years and not to assess each acquisition as if the last one had not happened.

Part 13—Enforcement

Clause 50 sets the corporate maximum at the greater of $50 million, three times the benefit obtained, or 30 per cent of adjusted turnover during the breach turnover period, and applies the Regulatory Powers (Standard Provisions) Act 2014.

Clause 51 provides for civil penalties, disqualification and other Commonwealth orders against an officer knowingly involved in a serious or repeated contravention.

Clause 52 confers an injunction power covering closure, withdrawal of access, implementation of an acquisition, retaliation, destruction of essential equipment, and other conduct reasonably likely to defeat the Act.

Clause 53 confers a compensation power for farmers, processors, wholesalers, independent food businesses and other persons who suffer loss from a contravention.

Clause 54 prohibits commercial, employment or contractual detriment because a person provided information about a possible contravention.

Part 14—Accountability and parliamentary oversight

Clause 55 requires an annual Australian Food Sovereignty Statement by 31 October covering capacity, gaps, ownership, service-kill, concentration, fertiliser, foreign ownership, closures, new capacity, interventions, regional resilience and import dependence.

Clause 56 requires a closure accountability statement if a strategic facility that received Commonwealth assistance closes within ten years of that assistance.

Clause 57 requires a review to begin within five years, directed at measurable outcomes, with tabling within 15 sitting days of receipt. Subsection (4) states that the review does not pause enforcement, intervention or investment.

Part 15—General provisions

Clause 58 provides that the Act is additional to the Competition and Consumer Act 2010, the Foreign Acquisitions and Takeovers Act 1975, industry codes, and State and Territory food-safety, environmental, workplace and animal-welfare laws. Where another Commonwealth law is stronger

against anti-competitive conduct, retaliation, unfair dealing or loss of strategic infrastructure, the stronger protection applies to the extent legally permissible.

Clause 59 is the general regulation-making power. It commences on Royal Assent so that prescribed processors, distances, assistance thresholds and essential-manufacturing designations can be made before the operational provisions commence.

Clause 60 requires every person exercising a power or performing a function under the Act to have regard to Schedule 1.

Schedule 1—National Food Security and Independent Access Principles

Schedule 1 states eight principles. They are not recitals. Clause 60 makes them a mandatory relevant consideration. Principle 1 treats processing capacity as national economic security infrastructure. Principle 2 treats access as a separate fact from ownership and from whether the plant is running. Principle 3 rejects paper competition. Principle 4 requires a closure to be assessed across the system it supports. Principle 5 requires public money to purchase an enforceable public benefit. Principle 6 forbids regulation that manufactures monopoly. Principle 7 requires Australian resources to support Australian capability. Principle 8 prefers prevention to reconstruction.

Those eight principles are the spine of AFS-P 2026/01 and of this Bill.