2025–2026

The Parliament of the

Commonwealth of Australia

HOUSE OF REPRESENTATIVES

(Model private member's bill)

Presented and read a first time

Free Speech Bill 2026

No. , 2026

(Consultation draft)

FS-B 2026/01 · Revision 2 · 27 September 2026

New consultation draft prepared from the existing policy and explanatory memorandum. Includes 38 clauses and seven schedules.

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.

Contents

Part 1 - Preliminary: clauses 1-7

Part 2 - Opinion, expression and remedies: clauses 8-12

Part 3 - Compatibility machinery: clauses 13-17

Part 4 - Incitement: clauses 18-21

Part 5 - Protected expression: clauses 22-25

Part 6 - Proposed constitutional alteration: clauses 26-28

Part 7 - Council and review: clauses 29-32

Part 8 - Miscellaneous: clauses 33-38

Schedule 1 - Racial Discrimination Act 1975

Schedule 2 - Review of speech and status provisions

Schedule 3 - ASIO questioning safeguards

Schedule 4 - Online safety coordination

Schedule 5 - Migration decisions

Schedule 6 - Proposed constitutional guarantee

Schedule 7 - Parliamentary scrutiny

The Parliament of Australia enacts:

Part 1 - Preliminary

1 Short title

This Act is the Free Speech Act 2026.

2 Commencement

(1) Sections 1 to 17, 22 to 38 and Schedules 1, 3, 6 and 7 commence on the day after Royal Assent.

(2) Sections 18 to 21 and Schedules 2 and 5 commence on the 28th day after Royal Assent.

(3) Schedule 4 items 1 and 6 commence on the day after Royal Assent. Items 2 to 5 commence on the later of that day and the commencement of Part 3A of the Online Safety Act 2021 as inserted by the Online Safety Amendment (Digital Harm Prevention) Act 2026. If that Part never commences, those items do not commence.

(4) The introduction of a Constitution Alteration Bill does not itself alter the Constitution. Schedule 6 has only the operation specified in Part 6 unless and until an alteration is approved and takes effect under section 128 of the Constitution.

3 Objects

The objects are to protect opinion and expression in the terms of Article 19 of the International Covenant on Civil and Political Rights; require justified and proportionate Commonwealth restrictions; preserve properly defined incitement and violence offences; protect journalism, peaceful protest, religious teaching, art and political communication; coordinate online-harm prevention with those protections; and provide a process for proposing constitutional protection.

4 Definitions

In this Act:

Article 19 test means the conditions in section 10.

Commissioner means the eSafety Commissioner.

Council means the Free Speech Council established by section 29.

Covenant means the International Covenant on Civil and Political Rights.

Digital Harm Prevention provisions means Part 3A and section 86A of the Online Safety Act 2021, and section 233 as amended by the Online Safety Amendment (Digital Harm Prevention) Act 2026.

expression includes seeking, receiving and imparting information and ideas of all kinds, across frontiers and through any medium, and peaceful assembly communicating a message.

General Comment No. 34 means the United Nations Human Rights Committee's General Comment No. 34, CCPR/C/GC/34, dated 12 September 2011.

Minister means the Attorney-General, except where a responsible Minister is specified.

opinion means the holding of a view, as distinct from conduct accompanying its expression.

speech restriction means a Commonwealth law, instrument, notice, direction, listing decision, grant condition or other governmental measure whose intended or practical effect is to forbid, compel, penalise or materially burden expression.

specified online restriction means a restriction independently satisfying the elements and safeguards of the Digital Harm Prevention provisions.

5 Crown bound

This Act binds the Crown in each of its capacities to the extent of the legislative power of the Commonwealth. Section 36 governs criminal liability.

6 Constitutional basis and application

(1) This Act has effect to the extent supported by the external-affairs power, the communications power, the corporations power, the territories power and other available Commonwealth legislative powers.

(2) Nothing in this Act authorises an infringement of the implied freedom of political communication or any other constitutional limitation.

(3) Each provision has a separate operation in relation to Commonwealth officers and authorities, constitutional corporations, communications services and Territories to the extent supported by the Constitution.

7 Relationship with other laws

(1) This Act prevails over an inconsistent Commonwealth speech restriction to the extent of inconsistency, subject to the Constitution and any later Act expressly providing otherwise.

(2) It is intended to exclude a State or Territory restriction that penalises expression merely for offence or insult and fails section 10, only to the extent the Commonwealth has constitutional power to do so. Otherwise concurrent operation is preserved.

(3) Offences concerning violence, threats, conspiracy, child-sexual exploitation and non-consensual intimate imagery are not repealed merely because they involve communication. Their application to expression remains subject to section 10 and constitutional limitations.

(4) Specified online restrictions and the rights in this Act operate cumulatively. Schedule 4 governs coordination. Neither the specific online scheme nor this Act is a blanket exception to the other.

(5) A policy paper or explanatory memorandum is not an independent source of a power to restrict expression.

Part 2 - Opinion, expression and remedies

8 Freedom of opinion

(1) Every person has the right to hold opinions without interference.

(2) A Commonwealth authority or officer must not penalise a person merely for holding an opinion, or compel the person to hold, abandon or disclose an opinion except to the extent disclosure of relevant evidence is lawfully required consistently with the Constitution and this Act. No power may compel ideological assent.

9 Freedom of expression

(1) Every person has the right to freedom of expression, including seeking, receiving and imparting information and ideas of all kinds, regardless of frontiers, orally, in writing or print, in art, or through any other chosen medium.

(2) A Commonwealth speech restriction has effect only to the extent it satisfies section 10.

(3) Expression does not lose protection merely because it offends, shocks or disturbs, criticises a public institution, or expresses an unpopular political, religious, scientific or moral opinion.

10 Conditions for restricting expression

(1) A restriction must satisfy all the following conditions:

(a) it is provided by clear and accessible law, with reasonably foreseeable limits;

(b) it pursues only respect for the rights or reputations of others, national security, public order, public health or morals;

(c) it is necessary and proportionate to that purpose and is the least intrusive effective means reasonably available;

(d) its proponent identifies the specific threat and demonstrates the connection between the expression, the threat and the proposed restriction.

(2) Social cohesion, community harmony, disinformation, hate or extremism, stated without a demonstrated connection to a purpose in paragraph (1)(b), is not sufficient justification.

(3) For preventative duties concerning the closed child-protection list, the assessment may address the defined category and the manner of recommendation or supply to children. It must not require waiting for injury to an identified child, but must explain the evidence supporting the restriction and preserve lawful adult access. The risk must not be inferred solely from disagreement with an opinion.

(4) This section is to be interpreted consistently with Article 19 of the Covenant and General Comment No. 34. The right to hold an opinion is not subject to the limitations on its expression.

(5) A certificate, classification or statement that a measure protects children does not conclusively establish compliance with this section. Courts and tribunals retain their ordinary functions.

11 Incitement and Article 20

(1) Nothing in sections 8 to 10 prevents a precisely defined prohibition on propaganda for war or advocacy of national, racial or religious hatred constituting incitement to discrimination, hostility or violence, consistently with Article 20 and section 10.

(2) This section does not itself create an offence. The offence created by this Act is section 18. Any other prohibition must have its own statutory basis.

(3) The incitement threshold for section 18 is not a universal precondition to a civil child-access duty, an independently established exploitation or intimate-image offence, or a specified online restriction.

12 Remedies

(1) A person whose rights under this Part are affected may apply to the Federal Court or the Federal Circuit and Family Court of Australia (Division 2) for a declaration or injunction within its jurisdiction.

(2) The court may restrain an unlawful restriction, declare a purported notice ineffective, or require a decision to be reconsidered according to law. This section does not create automatic damages or a new criminal penalty.

(3) The Council may intervene with the affected person's consent and the court's leave. It cannot override that person's wishes.

(4) Existing judicial-review, constitutional and merits-review rights are preserved. Seeking review does not automatically stay a valid notice; a competent court or tribunal may grant a stay. A notice void under its governing Act is not made effective by this subsection.

Part 3 - Compatibility machinery

13 Certificates for Bills

(1) Before the second reading of a Government Bill containing a speech restriction, the responsible Minister must publish and table a certificate identifying:

(a) the exact restriction and how its scope is clear and accessible;

(b) the permitted purpose under section 10(1)(b);

(c) the specific threat and the connection between the expression and that threat;

(d) the less intrusive alternatives considered and why the chosen measure is necessary and proportionate; and

(e) how freedom of opinion is protected.

(2) A recital of a purpose without reasons is not sufficient. The certificate must address material effects on children, privacy and lawful adult access where relevant.

(3) This section imposes a duty on the Minister. It does not confer a judicial power to restrain parliamentary debate or invalidate an Act because a parliamentary procedure was not followed.

14 Instruments, notices and decisions

(1) A speech-restrictive instrument, notice, listing or administrative decision must include a written assessment addressing section 13(1) as relevant to its circumstances.

(2) A notice under the Digital Harm Prevention provisions satisfies the form requirement if its reasons address those matters and comply with section 43M of the Online Safety Act 2021. No duplicate certificate is required.

(3) Urgent action under an existing statutory power concerning child-sexual exploitation, Class 1 material or non-consensual intimate images may proceed without a separate ministerial certificate, but never without the reasons and safeguards required by that power. Urgency does not waive section 10 or validate a prohibited informal demand.

(4) A materially non-compliant administrative measure is ineffective to the extent of non-compliance. Courts retain ordinary powers concerning relief.

15 Parliamentary scrutiny and debate

(1) The responsible Minister must refer each Government speech-restriction Bill and certificate to the Parliamentary Joint Committee on Human Rights.

(2) Following a majority report finding non-compliance, the Minister must seek arrangements in each House for at least a full sitting day's consideration before final passage and publish a response to the report.

(3) Each House retains control of its proceedings. This section does not create a judicial veto on Parliament.

16 Drafting control

The responsible Minister must not request finalisation of a Government speech-restriction Bill for introduction without a completed section 13 certificate. This is an executive drafting control, not a limit on a House's legislative power.

17 Existing parliamentary-scrutiny process

Schedule 7 supplements the Human Rights (Parliamentary Scrutiny) Act 2011. A single document may satisfy both Acts if it contains all required information.

Part 4 - Incitement

18 Intentional incitement offence

(1) A person commits an offence if:

(a) the person publicly advocates national, racial or religious hatred;

(b) that advocacy constitutes incitement within section 19; and

(c) the person specifically intends that incitement.

(2) Penalty: imprisonment for 5 years.

(3) Recklessness is not sufficient for the specific-intent element. No element is subject to absolute liability. Chapter 2 of the Criminal Code applies, subject to this section.

(4) The prosecution must establish the elements beyond reasonable doubt, including the likelihood and connection required by section 19. The offence applies only consistently with section 10.

19 Meaning of incitement

(1) Incitement requires advocacy intended to cause another person to engage in discrimination, hostility or violence, likely in the circumstances to produce that conduct, with a direct and immediate connection between the advocacy and that result.

(2) Mere offence, insult, expression of a hateful opinion, criticism of religion or government, quotation, reporting another's words, or association with a group is not of itself incitement.

(3) Hostility requires conduct directed against a person or group; it does not mean private dislike or disagreement. Discrimination means adverse treatment on national, racial or religious grounds of a kind unlawful under an applicable law. These definitions do not create a separate offence of offensive opinion.

20 Prosecution safeguards

(1) A prosecution for section 18 must not be instituted without the written consent of the Commonwealth Director of Public Prosecutions, based on an assessment of the statutory elements, evidentiary sufficiency and public interest.

(2) Within 28 days after this section commences, the Director must publish guidance addressing those requirements and the protected-expression provisions. The guidance cannot enlarge an offence or bind a court.

(3) Consent is a procedural safeguard, not proof of guilt. Ordinary prosecutorial independence and judicial control are preserved.

21 Existing violence offences

Existing Commonwealth offences of urging or threatening violence remain in force, subject to section 10 where applicable. A person must not be punished twice for the same conduct under this Part and another Commonwealth offence. Ordinary rules governing alternative charges and double jeopardy apply.

Part 5 - Protected expression

22 Presumption of lawful expression

(1) Journalism, academic research, peaceful protest, satire, parody, artistic work, religious teaching and political communication are presumed lawful.

(2) A person seeking a restriction must establish its independent statutory elements and compliance with section 10. Mere offence, viewpoint or a label such as harmful opinion is insufficient.

(3) A prosecution under section 18 must establish incitement. That requirement does not replace the elements of a distinct violence, exploitation or intimate-image offence, or convert a civil specified online restriction into an incitement proceeding. Describing material as journalism, religion or art does not exempt independently established illegal material from lawful regulation.

(4) Criticism of a religion or belief, including lack of respect, does not alone justify a restriction. Any restriction must satisfy section 10 and any applicable incitement elements.

(5) The Digital Harm Prevention exclusions for non-instructional discussion, reporting, research, memoir, recovery and lived experience continue to apply.

23 Confidential journalistic sources

(1) A Commonwealth warrant whose substantial purpose is identifying a journalist's confidential source requires authorisation by a judge of a superior court under an available statutory power.

(2) The applicant must establish necessity, the absence of a less intrusive effective means, and that the public interest in obtaining the evidence outweighs the public interest in source confidentiality and reporting matters of public concern.

(3) Notice and an opportunity to be heard must be given unless the judge finds this would create a substantial risk to the investigation, evidence or a person's safety. Any departure must be reasoned and limited.

(4) This section limits existing powers and creates no new power to issue a warrant.

24 Political symbols

Mere display of a political symbol is not, by itself, a sufficient basis for a Commonwealth criminal penalty. This does not protect a display independently proved to constitute a threat of violence, incitement, or conduct constituting another offence consistently with section 10.

25 Peaceful protest

A Commonwealth power specifically restricting peaceful protest must be exercised consistently with sections 9 and 10 and, to the extent applicable, Article 21 of the Covenant. Noise, inconvenience, offence or criticism alone does not establish the statutory basis for restriction.

Part 6 - Proposed constitutional alteration

26 Introduction of proposal

(1) Within six months after commencement, the Minister must introduce a Constitution Alteration Bill proposing the guarantee in Schedule 6 or wording certified, with reasons, as no less protective.

(2) The Minister must seek a parliamentary committee inquiry into wording, constitutional placement and practical operation before passage.

(3) The duty is to introduce a proposal. It does not compel either House to pass it or substitute for section 128 of the Constitution.

27 Equal public funding

If public funds are appropriated for official Yes and No campaigns on the proposal, the Minister must administer the appropriation on equal terms for the two cases. This section makes no appropriation.

28 Separate question

The Minister must present the guarantee as a separate proposed alteration capable of a Yes or No answer, without coupling it to an unrelated constitutional change. Constitutional and referendum legislation governs submission to electors.

Part 7 - Council and review

29 Free Speech Council

(1) The Free Speech Council is established as a five-member part-time advisory body appointed by the Governor-General on the Minister's recommendation.

(2) Membership must collectively include experience as a judge, in journalism, in civil liberties, in religious communities and in national security. Appointments are for terms not exceeding three years; members may be reappointed once.

(3) The Minister must publish selection criteria and reasons addressing relevant experience and independence. Members must disclose and manage material conflicts of interest.

(4) The Governor-General may terminate an appointment for proved misbehaviour, incapacity, bankruptcy or serious failure to disclose a material conflict, with reasons tabled by the Minister. Disagreement with a member's lawful opinion is not a ground.

30 Functions and limits

(1) The Council must report annually on Commonwealth speech restrictions, publish guidance, advise on the constitutional proposal and exercise the intervention function in section 12.

(2) It has no takedown, listing, compulsory-investigation or penalty power. It may receive voluntary submissions but must protect confidential information and obtain consent before identifying a private complainant.

(3) The Minister must table the annual report within 15 sitting days of receipt. Administrative support and remuneration are subject to ordinary public-finance and remuneration law and appropriated funds.

31 Independent security review

The Minister must request the Independent National Security Legislation Monitor to review the interaction of compulsory questioning, organisational listing and political, religious and journalistic expression within 12 months, and before any proposed renewal of questioning powers. This does not direct the Monitor's findings. Public reporting may redact only material lawfully protected from disclosure, with reasons for redaction.

32 Three-year review

Within three years after commencement the Minister must cause an independent review of this Act and its operation with the Digital Harm Prevention provisions, including effects on children, lawful expression, privacy, enforcement and the constitutional proposal. The report must be tabled within 15 sitting days of receipt.

Part 8 - Miscellaneous

33 Review of intelligence-related decisions

A speech-restrictive administrative decision is not exempt from judicial review merely because it relies on intelligence advice. Existing lawful protections for sensitive evidence continue, but do not make the decision or its legal basis conclusive. This section does not abrogate constitutional jurisdiction.

34 Delegation

The duty under section 26 cannot be delegated. Any other delegation must be authorised by an existing law and must not enlarge a speech-restrictive power.

35 Regulations

The Governor-General may make regulations required or permitted by this Act or necessary for its administration. Regulations must not create an offence, enlarge a restricted-material category, restrict opinion, amend this Act or authorise a measure inconsistent with section 10.

36 Crown liability

The Crown is not liable to prosecution under this Act. This does not immunise an individual officer from an applicable offence or prevent declaratory or injunctive relief against a Commonwealth authority.

37 Just terms

If this Act would result in acquisition of property otherwise than on just terms within paragraph 51(xxxi) of the Constitution, the Commonwealth is liable to pay reasonable compensation. If agreement cannot be reached, a person may apply to the Federal Court.

38 Schedules and application

(1) Legislation specified in a Schedule is amended or repealed as set out, and any other item has effect according to its terms.

(2) Unless expressly provided otherwise, new offences and civil liabilities apply prospectively. Schedule 1 governs pending racial-discrimination proceedings and Schedule 4 governs online coordination.

Schedule 1 - Racial Discrimination Act 1975

1 Sections 18C and 18D

Repeal the sections.

2 Transitional protection

(1) The repeal does not vacate a judgment already given or permit a new proceeding under section 18C after commencement, including in relation to an earlier act.

(2) A proceeding commenced before commencement may continue under sections 18C and 18D as in force immediately before commencement, unless discontinued. For that purpose both provisions and associated procedural provisions are saved.

(3) Ordinary judicial discretion concerning costs remains. No automatic adverse costs consequence arises solely because a party discontinues following repeal.

Schedule 2 - Review of speech and status provisions

1 Review and parliamentary response

(1) Within 90 days of commencement the Minister must table a provision-by-provision review of speech and status provisions introduced by the Combatting Antisemitism, Hate and Extremism (Criminal and Migration Laws) Act 2026, identifying each provision assessed against section 10 and the reasons.

(2) A reviewed provision found inconsistent is inoperative to that extent from 28 days after tabling unless both Houses resolve before that date that it continue. A resolution must identify the provision and be published.

(3) This mechanism does not prevent judicial application of sections 9 and 10 or the Constitution. A finding alone does not vacate a final judgment or create retrospective criminal liability.

2 Organisational listing

For a Commonwealth listing under the reviewed hate-group scheme, lawful political or religious advocacy is not a sufficient ground. A listing must identify evidence that a purpose of the organisation is commission of a violent offence and must satisfy section 10 and the scheme's remaining statutory requirements. Existing listings inconsistent with this item must be reviewed promptly and cease to support new speech-only liability to the extent of inconsistency.

3 Protected expression

Membership, support, recruitment, training or preacher-related provisions in the reviewed scheme do not impose liability merely for expression protected by section 22. Conduct independently constituting violence, threats or intentional incitement remains subject to its own elements.

4 Burden of proof

In a criminal proceeding under a reviewed symbol or speech provision, the prosecution bears the legal burden of proving guilt and negating a properly raised public-interest, journalistic, artistic or religious exception. A defendant may bear an evidential burden, but not a persuasive burden, concerning facts peculiarly within the defendant's knowledge.

5 Violence offences preserved

This Schedule does not repeal ordinary offences of violence, threats, conspiracy or weapons conduct, or excuse independently criminal conduct. Section 10 applies to their operation on expression.

Schedule 3 - ASIO questioning safeguards

1 Permitted adult questioning matters

Despite a broader definition in the Australian Security Intelligence Organisation Act 1979, a new compulsory questioning warrant may concern only espionage, politically motivated violence or foreign interference. Lawful opinion is not of itself evidence of any such matter. A future extension requires primary legislation.

2 Lawful expression

A questioning power must not be used for the purpose of investigating expression solely because of its political, religious or journalistic viewpoint. A warrant already in force cannot authorise questioning contrary to this Schedule after commencement.

3 Silence, legal assistance and limited disclosure

(1) A person may decline an answer that substantially concerns the person's lawful political, religious or journalistic expression, without offence or adverse inference solely from that refusal. This does not excuse destruction of evidence or independently criminal conduct.

(2) A person has a right to a lawyer of choice throughout questioning, subject only to an independently judicially approved restriction necessary to address a demonstrated conflict or substantial investigative risk. An alternative lawyer must be available during any such restriction.

(3) A secrecy requirement must permit confidential communication with that lawyer and, where reasonably necessary for welfare or medical care, a spouse, parent or medical practitioner. A court may impose tailored confidentiality conditions to protect a lawful investigation.

4 Minimum age

A compulsory questioning warrant must not be issued or executed against a person under 18. An existing warrant ceases to authorise further questioning of such a person from commencement.

5 Judicial authority for detention

A person must not be detained for compulsory questioning without authority from a superior-court judge under an available statutory power, on evidence of necessity and proportionality. Administrative approval alone is insufficient. This item creates no new detention or warrant power and does not extend an existing period of detention.

6 Sunset and renewal

The existing three-year sunset is not extended by this Act. Before proposing renewal, the Minister must obtain a public independent review and seek at least a full sitting day's consideration in each House. Parliament retains control of its proceedings.

7 University-related advice and review

Where a Commonwealth administrative decision restricting expression relies on ASIO advice concerning a university matter, the affected person must receive reasons and the substance of adverse allegations sufficient for a fair response, subject to lawful and proportionate protection of sensitive information. No intelligence certificate is conclusive on legality or excludes otherwise available judicial review. This item does not authorise indiscriminate disclosure of intelligence sources.

Schedule 4 - Online safety coordination

1 Interpretation and commencement

(1) The Digital Harm Prevention provisions provide the specific statutory online duties and categories; this Act provides the general rights standard. References to those provisions operate only when they are in force.

(2) An earlier policy or memorandum describing a three-category removal limit is superseded as an account of this Bill's proposal. It is not incorporated into this Act.

2 Permitted categories and child-only limits

(1) Sections 43E and 43G of the Online Safety Act 2021 supply the exhaustive categories for the coordinated material duties and content notices.

(2) A restriction based only on section 43G must be confined to preventing recommendation or supply to children under 18, consistently with sections 43F, 43JA and 43MA. It does not authorise general removal from lawful adult access.

(3) The provider knowledge standard, reasonable-steps duty and method-instruction exclusions apply as written in that Act. Users aged 16 or 17 remain protected children while eligible for the section 43H ranking choice.

(4) Existing social-media minimum-age requirements are not amended by this Schedule. No instrument or notice may add a restricted category.

3 Cumulative rights and independent elements

(1) A category is not a complete justification. Sections 8 to 12 of this Act and sections 43J, 43JA, 43K and 233 of the Online Safety Act 2021 apply together.

(2) Independently established duties concerning exploitation, intimate images or child-only access are not displaced merely because the material also conveys a political, religious, scientific or moral opinion. Viewpoint alone is never sufficient.

(3) The criminal incitement threshold in sections 18 and 19 does not apply as an additional element of a civil child-access duty or material notice. The notice must nevertheless satisfy all its own elements and section 10.

4 Formal notices, records and reporting

(1) Section 43M of the Online Safety Act 2021 is the single statutory scheme for formal content notices, prohibited informal government moderation requests, records, quarterly provider reporting and annual Commissioner reporting under the coordinated package.

(2) This Schedule neither recreates its 60-penalty-unit offence nor imposes a duplicate report for the same records. Recording a prohibited request never validates it.

(3) The urgent periods in section 86A do not dispense with reasons, a statutory category, necessity, proportionality or review. Review does not itself suspend a valid notice; a court or tribunal may order a stay, and mandatory stay requirements in section 43R apply.

5 Enforcement, information and user choice

(1) The systemic-failure threshold, reasonable-systems defence, court-imposed penalties, notice power, merits review and confined information-gathering provisions in sections 43MA and 43N to 43T continue to operate subject to the general rights test.

(2) Ordinary end-users' records about another person's expression cannot be compelled by the Commissioner under that Part. Any compulsory access must have independent judicial authority under existing law, tied to specified section 43E material and subject to applicable source protection.

(3) The section 43H ranking choice is a user right for persons aged 16 and over. It does not authorise state-selected sources or a government-prescribed replacement feed.

6 Order of enactment and savings

(1) Before the Digital Harm Prevention provisions commence, this Schedule creates no new content power and abolishes no existing online scheme. Existing measures remain subject to this Act's general rights provisions as those provisions commence.

(2) Once both Acts are in force they operate cumulatively regardless of order of enactment. Neither provides a blanket override of the other.

(3) Nothing in this Schedule revives a void notice, enlarges a delegated power, authorises double punishment, or removes a review right.

Schedule 5 - Migration decisions

1 Lawful expression not a standalone adverse ground

Despite a provision introduced by the Combatting Antisemitism, Hate and Extremism (Criminal and Migration Laws) Act 2026, a visa refusal or cancellation must not be based solely on expression lawful under this Act described as hate-motivated conduct. The label does not establish a character or security ground.

2 Independent criminality grounds

Existing character and criminality grounds supported by a conviction for violence, threats or incitement are preserved, subject to their statutory elements, procedural fairness and section 10 where applicable. This Schedule does not grant a visa or remove an unrelated lawful ground for refusal or cancellation.

3 Prospective decisions and review

This Schedule applies to decisions made after its commencement and to reconsideration on an available review. It does not automatically reopen a final decision or create a new review jurisdiction.

Schedule 6 - Proposed constitutional guarantee

Proposed text for introduction under section 26

The following text is to be placed in the Constitution at a position settled in the separate Constitution Alteration Bill. Its inclusion here does not amend the Constitution.

Freedom of opinion and expression

(1) Every person has the right to hold opinions without interference.

(2) Every person has the right to freedom of expression, including the freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, orally, in writing or print, in the form of art, or through any other medium of choice.

(3) A law or governmental act restricting expression is invalid to the extent that the restriction is not provided by clear and accessible law, directed only to respect for the rights or reputations of others or the protection of national security, public order, public health or morals, and necessary and proportionate to that purpose.

(4) Subsection (3) does not authorise interference with the holding of an opinion.

(5) This section binds the Commonwealth, each State and each Territory and their authorities. It does not limit any other constitutional protection of political communication.

Schedule 7 - Parliamentary scrutiny

Human Rights (Parliamentary Scrutiny) Act 2011

1 After section 8

Insert:

8A Statements concerning restrictions on expression

(1) A statement under section 8 for a Bill containing a speech restriction within the meaning of the Free Speech Act 2026 must address the five matters in section 13(1) of that Act, set out the relevant text and give reasons in plain language.

(2) A document satisfying both Acts may be used. Compliance with this section is not conclusive evidence of compatibility and does not limit a court's function.

(3) Subsections 8(4) and (5) continue to apply. This section does not make parliamentary proceedings justiciable or invalidate an Act for procedural non-compliance.

End of consultation draft FS-B 2026/01, coordinated revision 2.