THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA
HOUSE OF REPRESENTATIVES

Religious Hostility Measures (Human Rights Compatibility) Bill 2026

EXPLANATORY MEMORANDUM

(Circulated by authority of the Member presenting the Bill)

Related Bill	Religious Hostility Measures (Human Rights Compatibility) Bill 2026
Companion papers	Human Rights Compatibility Policy (September 2026); List of potential human rights violations (60-item print schedule)
Financial impact	Low. Independent Reviewer and PJCHR examination are absorbed within existing parliamentary and portfolio appropriations, with a modest additional Reviewer cost.
Human rights	The Bill is compatible with human rights. See the Statement of Compatibility below.

Outline

The Bill answers a precise problem. The Special Envoy's National Response to Islamophobia (12 September 2025) and the Australian Government response (18 July 2026) contain measures that can lawfully protect Muslim Australians from violence and discrimination. They also contain, or enable, measures that can restrict freedom of thought, conscience, religion and expression by treating criticism of Islam as a civil, professional, educational or funding wrong.

The Bill draws the only line the International Covenant on Civil and Political Rights permits. The Commonwealth may protect persons. It may not manage ideas.

To stop that line being ignored, the Bill does four structural things.

It states an overriding principle (clause 7) that prevails over every "Islamophobia measure".

It lists, in the Act itself, sixty potential human rights violations as Schedule 1. A measure cannot take effect if an engaged item is uncleared. A compatibility statement that summarises or omits an item is void as a statement.

It renders inconsistent grant rules, training modules, curriculum directions, eSafety guidelines, TEQSA conditions, AFP tasking documents, behaviour codes and visa criteria of no effect.

It gives standing and a fast Federal Court remedy to the people most likely to be chilled: journalists, teachers, parents, parliamentarians, apostates and women's-rights advocates.

Purpose and why legislation is required

Policy and guidelines are not enough. The National Response and the Government response operate through taskforces, grant guidelines, training, curriculum, platform duties and police liaison. Those instruments do not come back to the Parliament. Without an Act:

"Islamophobia" can remain undefined while still triggering consequences;

a religion can be recast as a race under the Racial Discrimination Act 1975;

parliamentary, academic and journalistic speech can be investigated as a "driver" of hostility;

"social cohesion" can be used as if it were an offence; and

the sixty-item list can sit in a policy paper and be ignored.

Legislation is the only instrument that can invalidate those workarounds and give a court something to enforce.

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.

Human rights engaged

The Bill engages, and is designed to give effect to:

ICCPR Articles 2, 6, 9, 14, 15, 17, 18, 19, 20(2), 21, 22, 25, 26 and 27;

ICERD Articles 1, 2, 4 and 5;

ICESCR Articles 6, 7, 13 and 15;

CRC Articles 2, 13, 14, 17 and 29;

CEDAW Articles 2, 5 and 16;

the Convention on the Rights of Persons with Disabilities;

ILO Convention 111;

the 1981 Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief; and

section 116 of the Constitution.

Rights promoted

Article 6 and Articles 9, 17, 18 and 26 are promoted by the duty in clause 8 to protect every person, including every Muslim Australian, from violence, threats, vandalism of places of worship and unlawful religious discrimination. That duty is religion-neutral. It does not reduce existing criminal law or anti-discrimination law.

Articles 18 and 19 are promoted by the prohibition on treating criticism of a religion as a wrong. Human Rights Committee General Comment 34 is explicit: restrictions on discussion of religious doctrines are not permitted merely because the ideas are regarded as insulting to a faith. General Comment 22 protects theistic, non-theistic and atheistic belief, including the right to criticise and to leave a religion.

Article 20(2) is promoted, not diluted. The Bill requires the Commonwealth to use the Covenant definition of incitement and the Rabat six-part test. It stops the Article 20 duty being used as a pretext to empty Article 19.

Article 25 is promoted by protecting parliamentary and electoral speech. Article 26 is promoted by forbidding a denser speech regime for one religion than for others, and by forbidding the racialisation of a faith community. Article 27 is promoted by protecting a minority's own practice while refusing to convert minority rights into a speech-control power, and by protecting intra-Muslim dissenters.

CEDAW is promoted by declaring analysis of religious gender rules to be protected criticism. CRC Articles 13, 14 and 29 are promoted by forbidding a state theology in schools while preserving equal protection of children from religious hostility.

Rights limited, and why the limits are permissible

The only speech the Bill allows the Commonwealth to restrict on a religious-hatred ground is incitement. That limit is prescribed by law (clauses 5 and 9), pursues a legitimate aim (protection of the rights of others, and public order), and is necessary and proportionate because it is the limit the Covenant itself draws. Broader "Islamophobia in any form" restrictions are what the Bill forbids, because they fail those tests.

Clause 12's manner-and-form rule for racialising a religion limits the ease of future amendment. It does not limit a human right. It protects Articles 19 and 26 from being rewritten by a side-wind.

Standing and injunction powers limit an agency's freedom to implement an uncleared measure. That is a limit on executive power, not on a Covenant right.

Conclusion on compatibility

The Bill is compatible with human rights. It implements the Covenant's own distinction between protecting persons and immunising ideas.

Notes on clauses

Part 1 — Preliminary (clauses 1–7)

Clause 1 is the short title.

Clause 2 commences the Act the day after Royal Assent. Immediate commencement is required because several implementing measures (Education Taskforce, training, grant guidelines, eSafety work) are already on foot.

Clause 3 binds the Crown in all capacities so that a Department cannot plead that training or grant rules are merely "Crown practice".

Clause 4 catches visa, platform and communications measures that affect a person in Australia even if the speaker is overseas. That is the receipt side of Article 19(2).

Clause 5 defines the operative terms. "Incitement" is locked to Article 20(2) plus Rabat. "Islamophobia measure" is drafted widely so that a grant guideline or a training slide deck cannot escape by not being an Act. "Person-protection conduct" is the only harm the Commonwealth is authorised to pursue under an Islamophobia label. "Protected criticism" is the speech the Bill immunises. It includes criticism by current and former adherents.

Clause 6 states the objects by reference to the treaties. Courts may use objects to resolve ambiguity. They cannot use objects to expand "Islamophobia".

Clause 7 is the overriding principle: protect persons, do not manage beliefs, history, theology or politics. Subclause 7(2) gives that principle prevalence over every Islamophobia measure. This is the clause a court should start with.

Part 2 — What the Commonwealth must do (clauses 8–9)

Clause 8 is the positive duty. It is included so the Bill cannot be caricatured as indifference to violence against Muslims. The duty is expressly religion-neutral. Security funding for places of worship must rest on evidenced risk, not on faith identity as such.

Clause 9 is the only lawful religious-hatred speech restriction. Written Rabat analysis is mandatory so that "incitement" cannot be asserted in a press release.

Part 3 — What the Commonwealth must not do (clauses 10–15)

Clause 10 is the speech core. An agency must not treat protected criticism as a crime, a civil penalty, misconduct, a funding breach, a visa failure or an educational harm, and must not outsource that restriction to a university, platform or employer.

Clause 11 kills undefined triggers. A definition that includes "dread or hatred of Islam" or "Islamophobia in any form" is deemed not confined to person-protection conduct. The definition must be published first.

Clause 12 forbids treating a religion as a race. A later amendment of the Racial Discrimination Act that classifies Muslims as an ethno-religious racial group does not take effect unless the Parliamentary Joint Committee on Human Rights has reported and both Houses have resolved compatibility with Articles 19 and 26 and ICERD Article 1. A later Parliament can repeal clause 12. Until it does, this is the rule.

Clause 13 is the equality rule. Extra machinery for one religion needs published comparative evidence and a 24-month cap.

Clause 14 forbids official theology in curriculum and public employment. A student, teacher or parent may refuse to affirm a proposition about a religion.

Clause 15 protects intra-faith dissenters and makes peak-body-only consultation invalid. That is directed at the foreseeable capture of "community consultation" by a single official voice.

Part 4 — Parliament, public service and political rights (clauses 16–18)

Clause 16 stops behaviour codes and IPSC processes being used against policy argument. Training may describe violence. It may not require affirmation of a definition.

Clause 17 restates, in statute, the substance of Constitution section 116 for public employment: no religious test, no religion-designed leadership pathway.

Clause 18 puts beyond argument that a political opinion about immigration, integration, religious law, counter-terrorism or a foreign conflict is not, of itself, Islamophobia.

Part 5 — Education and research (clauses 19–21)

Clause 19 regulates schools and early childhood. It forbids compelled affirmation, the treatment of protected criticism as intolerance, and the bundling of Islamophobia with anti-Palestinian or anti-Arab racism so that a war position becomes a domestic racial harm. Draft materials must be consulted on. Parents may withdraw a child from a belief module.

Clause 20 stops TEQSA and the Student Ombudsman using an envoy definition as a registration or complaints standard. Research on Islamist movements, integration, grooming, foreign influence and sex-based rights inside religious communities is declared protected criticism.

Clause 21 requires equal structured protection for every child facing religious hostility.

Part 6 — Online safety, media, arts and visas (clauses 22–24)

Clause 22 confines eSafety and any digital duty of care. Communal offence is not a removal ground. A guideline that uses "Islamophobic material" as a category is dead unless clause 11 is met.

Clause 23 forbids "positive representation" grant conditions and State-funded monitoring of protected criticism.

Clause 24 makes protected criticism, of itself, incapable of being a visa character ground or a bar on a film, book or lecture. Reasons are required and reviewable.

Part 7 — Policing, data and security law (clauses 25–27)

Clause 25 states the obvious that policy keeps forgetting: social cohesion is not an offence. AFP tasking against lawful speech on a cohesion ground is unlawful.

Clause 26 splits crimes from non-crime incidents in any hate-crimes database. Non-crime data cannot feed enforcement, security assessment, professional discipline or immigration action.

Clause 27 stops the terrorist-act definition being rewritten to manage a community's image. Any amending Bill needs a compatibility statement on Article 6 (life) and Articles 2 and 26 (non-discrimination).

Part 8 — Health, work and sex-based rights (clauses 28–30)

Clause 28 stops AHPRA treating clinical disagreement with a religious practice as Islamophobia, and stops "culturally safe care" being used to withhold safeguarding.

Clause 29 applies ILO Convention 111 in both directions: no penalty for political opinion about a religion, and no religious preferment in Commonwealth-controlled work.

Clause 30 is the CEDAW clause. Analysis of guardianship, inheritance, testimony, compelled covering, forced marriage or honour-based abuse is protected criticism. Women's grants cannot be confined to organisations that deny those issues.

Part 9 — Inquiries, national days and foreign frames (clauses 31–33)

Clause 31 forbids inquiry terms of reference that treat political discourse or journalism as something to be policed. A one-group inquiry requires a published comparative case.

Clause 32 makes 15 March observance voluntary.

Clause 33 prevents a position on Israel, Palestine, Hamas, Hezbollah or Iran being treated as a racial or religious characteristic, or as Islamophobia, merely because of the position.

Part 10 — Compatibility machinery (clauses 34–36)

Clause 34 is the enforcement hinge for Schedule 1. The Minister must table a statement that addresses every item. A statement that summarises, paraphrases, cross-refers to an external document, or omits an item is not a statement. "Not engaged" needs facts. One uncleared engaged item blocks commencement of the measure.

Clause 35 requires the Parliamentary Joint Committee on Human Rights to examine the 18 July 2026 Government response and every later Islamophobia Act or legislative instrument against Schedule 1 and against Articles 18, 19, 20, 25 and 26.

Clause 36 creates an Independent Reviewer who cannot be a serving special envoy, with annual reports to the Parliament.

Part 11 — Invalidity, remedies and standing (clauses 37–40)

Clause 37 is the teeth. Inconsistent measures — including those already made — have no effect to the extent of the inconsistency. A grant contract that requires a prohibited thing is unenforceable to that extent.

Clause 38 gives standing to the people the chill actually lands on, plus the Reviewer and the Australian Human Rights Commission. Ordinary administrative-law standing would be too slow and too narrow.

Clause 39 provides declaration, injunction and setting-aside. Damages are withheld except where clause 8 overlaps another law, so that the Bill is used to stop measures, not to farm litigation. Hearings are to be expedited.

Clause 40 prevents waiver by grant condition, contract, code or enrolment term.

Part 12 — Review, sunsets and miscellaneous (clauses 41–44)

Clause 41 sunsets, at 12 months, the Education Taskforce, any school Social Cohesion Framework that treats Islamophobia as an operative harm, official training modules, and grant guidelines confined to Muslim organisations by reason only of religion, unless both Houses resolve compatibility. A resolution cannot authorise a thing the Act prohibits.

Clause 42 requires a three-year review of the Act itself.

Clause 43 allows rules but kills any rule that expands "Islamophobia", narrows protected criticism, or abridges Schedule 1.

Clause 44 preserves ordinary anti-discrimination law against person-protection conduct, gives this Act prevalence over Islamophobia measures, and restates that nothing in the Act authorises a law contrary to Constitution section 116.

Schedule 1 — Potential human rights violations

Schedule 1 is not an annex for information. It is enacted text. Each of the sixty items names the treaty article, the question the decision-maker must ask, the only pass condition, and the facts that crystallise the violation.

Items 1 to 11 cover Article 19 (definition, ideas versus persons, media inquiries, parliament, training, platforms, press, visas, campus, arts, databases).

Items 12 to 14 cover Article 20(2) and Rabat.

Items 15 to 19 cover Article 18.

Items 20 to 24 cover Article 26, ICERD Article 1, section 116 and CEDAW overlap.

Items 25 to 26 cover Article 25.

Items 27 to 29 cover Articles 9, 14 and 15.

Items 30 to 31 cover Article 17.

Items 32 to 34 cover Articles 21 and 22.

Items 35 to 36 cover Article 27.

Items 37 to 39 cover Article 2.

Item 40 covers Article 6 and the terrorist-act definition.

Items 41 to 44 cover ICESCR work, education and science.

Items 45 to 48 cover the CRC.

Item 49 covers CEDAW. Item 50 covers the Disability Convention. Item 51 covers ICERD Article 4. Item 52 covers the 1981 Declaration and the UDHR. Item 53 covers ILO Convention 111. Item 54 covers Constitution section 116.

Items 55 to 60 cover systemic risks: the prior-restraint stack, official-truth systems, imported war frames, enforcement through children, two inconsistent envoy regimes, and a residual necessity test.

The Schedule exists in the Act because a list left in a policy paper will be ignored. Clause 34 makes that structurally impossible.

Schedule 2 — Consequential notes

Schedule 2 flags the statutes that will need reading down or later amendment: the Online Safety Act 2021, the TEQSA Act, the Australian Federal Police Act, the Migration Act, the Racial Discrimination Act, the Criminal Code, and parliamentary workplace legislation. The Bill is drafted to operate immediately by inconsistency (clause 37) so that those amendments are tidy-up, not a precondition of protection.

Consultation

This draft is circulated for consultation. It has not been settled by the Office of Parliamentary Counsel. Persons and bodies that should be heard include the Parliamentary Joint Committee on Human Rights, the Australian Human Rights Commission, the Independent National Security Legislation Monitor, press and academic organisations, ex-Muslim and women's-rights organisations, and Muslim Australians who want protection from violence without protection of doctrine from criticism.

Financial impact statement

The Bill creates no new benefit program. The Independent Reviewer is a small statutory office. Court work under Part 11 is expected to be infrequent if agencies comply with Schedule 1 before they act. Grant programs that fail clause 13 or clause 41 fall back to general, religion-neutral programs. Net budget impact is assessed as low.

End of Explanatory Memorandum.