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Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

Automated Decision-Making (Safeguards and Transparency) Bill 2026

No. , 2026

(Ms Chaney)

**A Bill for an Act to regulate the use of automated
decision-making by the Commonwealth, and for
related purposes**

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1 **A Bill for an Act to regulate the use of automated**
2 **decision-making by the Commonwealth, and for**
3 **related purposes**

4 The Parliament of Australia enacts:

5 **Part 1—Preliminary**
6

7 **1 Short title**

8 This Act is the *Automated Decision-Making (Safeguards and*
9 *Transparency) Act 2026*.

10 **2 Commencement**

- 11 (1) Each provision of this Act specified in column 1 of the table
12 commences, or is taken to have commenced, in accordance with
13 column 2 of the table. Any other statement in column 2 has effect
14 according to its terms.

15

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this Act	The day after this Act receives the Royal Assent.	

16 Note: This table relates only to the provisions of this Act as originally
17 enacted. It will not be amended to deal with any later amendments of
18 this Act.

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

Section 3

3 Objects of this Act

The objects of this Act are:

- (a) to implement Recommendations 17.1 and 17.2 of the Royal Commission into the Robodebt Scheme, by establishing a mandatory framework governing the use of automated administrative action by the Commonwealth; and
- (b) to ensure that automated administrative action is lawful, accurate, transparent, and subject to appropriate human oversight and accountability; and
- (c) to ensure that individuals affected by automated administrative action are able to understand how, and why, that action was taken, and are able to seek effective review of it; and
- (d) to ensure that the level of scrutiny and transparency, and the safeguards, that apply to automated administrative action are proportionate to the risk that the automation poses to the rights and interests of individuals, the community, and the environment; and
- (e) to support the Commonwealth in realising the legitimate benefits of automation, including improved efficiency, consistency, and timeliness in the performance of government functions, in a manner that is consistent with the other objects of this Act.

4 Simplified outline of this Act

This Act regulates the automation of administrative actions (including administrative decisions) that are taken under a Commonwealth law.

Part 3 explains which administrative actions are covered by this Act, and also explains how this Act interacts with other Commonwealth laws.

Under Part 4, entities called responsible entities are prohibited from automating an administrative action unless certain requirements are satisfied. Responsible entities include

Section

1	Commonwealth Departments and other Commonwealth agencies,	
2	as well as officials of those Departments and agencies.	
3	Some of the requirements in Part 4 are substantive, such as	
4	requirements that the automation must not be likely to result in	
5	administrative action that is unlawful, and that it must not be likely	
6	to have an unjustified adverse impact on human rights. Others are	
7	procedural, including requirements that a risk assessment of the	
8	automation be conducted (and approved by the Commonwealth	
9	Ombudsman), and that there always be a human being (called a	
10	responsible officer) who is deemed to have taken the automated	
11	action.	
12	Part 5 deals with high risk automated administrative action, and it	
13	prohibits responsible entities from automating such high risk action	
14	unless certain additional requirements are satisfied. These	
15	requirements include the ability for a human decision-maker to	
16	override the automated system, and the existence of internal and	
17	external review pathways. Parts 5 and 6 also provide for	
18	independent oversight of high-risk automated systems by the	
19	Commonwealth Ombudsman.	
20	Both Parts 4 and 5, along with Part 6, include requirements aimed	
21	at improving the transparency of automated administrative action.	
22	These include requiring comprehensive information about	
23	automated administrative systems to be published on a public	
24	register (called the Commonwealth Automated Tools Register).	
25	This Act prohibits the automation of administration action in	
26	certain circumstances, but it does not itself authorise any	
27	automation. Even if the automation of an administrative action	
28	satisfies all the requirements in this Act, the automation is not	
29	legally authorised unless it is legally authorised independently of	
30	this Act.	

5 This Act binds the Crown

This Act binds the Crown in right of the Commonwealth.

Section 6

Part 2—Definitions

6 Definitions for this Act

In this Act:

accountable authority has the same meaning as in the *Public Governance, Performance and Accountability Act 2013*.

administering Department has the meaning given by section 13.

administrative action has the meaning given by section 7.

administrative decision has the meaning given by section 9.

automated has the meaning given by sections 8 and 10.

automated administrative action has the meaning given by section 8.

automated decision has the meaning given by section 10.

CAT Register (short for Commonwealth Automated Tools Register) has the meaning given by section 37.

Commonwealth entity has the same meaning as in the *Public Governance, Performance and Accountability Act 2013*.

Commonwealth law means any of the following:

- (a) an Act;
- (b) an instrument made under a power conferred by an Act;
- (c) an instrument made under a power conferred by another instrument, where that other instrument is a Commonwealth law because of the application of paragraph (b) or because of a separate application of this paragraph.

decision includes a refusal, or a failure, to make a decision.

Department means a Department of State of the Commonwealth.

Note: Unless the context indicates otherwise, a reference in a provision of this Act to “the Department” is a reference to the Department

Section 7

administered by the Minister that administers that provision: see section 19A of the *Acts Interpretation Act 1901*.

evaluative determination means one or more of the following:

- (a) a discretion being exercised;
- (b) an evaluative judgement being made;
- (c) a state of mind being formed.

high risk: see section 11.

human rights has the same meaning as in the *Human Rights (Parliamentary Scrutiny) Act 2011*.

official, of a Commonwealth entity, has the same meaning as in the *Public Governance, Performance and Accountability Act 2013*.

Ombudsman means the Commonwealth Ombudsman.

personal information has the same meaning as in the *Privacy Act 1988*.

responsible entity has the meaning given by section 12.

responsible officer has the meaning given by section 25.

7 Meaning of *administrative action*

Each of the following is an ***administrative action***:

- (a) making, or refusing or failing to make, a decision under a Commonwealth law;
- (b) exercising, or refusing or failing to exercise, a power under a Commonwealth law;
- (c) performing, or refusing or failing to perform, a function or duty under a Commonwealth law;
- (d) doing, or refusing or failing to do, anything (including giving a notice) related to making a decision, exercising a power or performing a function or duty under a Commonwealth law.

Section 8

8 Meaning of *automated administrative action*

- (1) An *automated administrative action* is an administrative action that is automated.
- (2) An administrative action is *automated* if:
- (a) the administrative action is taken by a computer program; or
 - (b) a computer program does a thing that is substantially and directly related to the taking of the action.
- (3) To avoid doubt, a reference in subsection (2) to an administrative action includes a reference to an administrative action that involves the making of an evaluative determination.

Note: This means that an administrative action that involves the making of an evaluative determination may be *automated* within the meaning of subsection (1).

9 Meaning of *administrative decision*

An *administrative decision* is the making of, or the refusal or failure to make, a decision under a Commonwealth law.

Note: An administrative decision is one kind of administrative action.

10 Meaning of *automated decision*

- (1) An *automated decision* is an administrative decision that is automated.

Note: An automated decision is one kind of automated administrative action.

- (2) An administrative decision is *automated* if:
- (a) the decision is made by a computer program; or
 - (b) a computer program does a thing that is substantially and directly related to the making of the decision.

- (3) To avoid doubt, a reference in subsection (2) to an administrative decision includes a reference to an administrative decision that involves the making of an evaluative determination.

Note: This means that an administrative decision that involves the making of an evaluative determination may be *automated* within the meaning of subsection (2).

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11 Meaning of *high risk*

- (1) The automation of an administrative action is ***high risk*** if:
- (a) a risk assessment conducted in accordance with Division 3 of Part 4 has classified the automation as high risk; and
 - (b) that risk assessment is published on the CAT Register.
- (2) An automated administrative action is ***high risk*** if the automation of the action is high risk.

12 Meaning of *responsible entity*

- (1) Each of the following is a ***responsible entity*** in relation to an administrative action taken under a provision of a Commonwealth law:
- (a) the Department that administers the provision, and each official of that Department;
 - (b) the Minister administering the Department that administers the provision;
 - (c) if a Commonwealth entity is authorised by the provision to take the action—the Commonwealth entity;
 - (d) if an official of a Commonwealth entity is authorised by the provision to take the action—the official and (separately) the Commonwealth entity;
 - (e) if a consultant or independent contractor of a Commonwealth entity is authorised by the provision to take the action—the consultant or independent contractor and (separately) the Commonwealth entity.

Note: A Department is a Commonwealth entity.

- (2) If a Commonwealth entity is a responsible entity in relation to an administrative action, then the accountable authority of the Commonwealth entity is also a ***responsible entity*** in relation to the administrative action.

Section 13

1 **13 Meaning of *administering Department***

2 The *administering Department* in relation to an administrative
3 action taken under a provision of a Commonwealth law is the
4 Department that administers the provision.

Part 3—Scope of this Act

14 Which automated administrative action is covered?

This Act applies in relation to an automated administrative action if, and only if, the automated administrative action has, or could reasonably be expected to have:

- (a) a legal or similarly significant effect on an individual, inclusive of human rights impacts; or
- (b) a legal or similarly significant effect on a person other than an individual; or
- (c) a significant impact on the environment; or
- (d) a significant effect on the community or a section of the community.

15 Interaction with other Commonwealth laws

If this Act applies in relation to an automated administrative action (see section 14), then this Act overrides any other Commonwealth law that authorises the automation of the action, or otherwise applies in relation to the action, to the extent of any inconsistency.

16 This Act does not authorise automation

- (1) To avoid doubt, this Act does not authorise the automation of any administrative action.
- (2) Instead, this Act:
 - (a) prohibits the automation of certain kinds of administrative action unless specified conditions are satisfied; and
 - (b) imposes various additional safeguards and transparency requirements in relation to certain kinds of automated administrative action.

Note: Even if the requirements in this Act are satisfied in relation to the automation of an administrative action, the automation is not legally authorised unless it is legally authorised independently of this Act.

1 **Part 4—Automating administrative action**

2 **Division 1—Preliminary**

3 **17 Purpose of this Part**

- 4 (1) The purpose of this Part is to set out requirements that apply
5 generally in relation to the automation of administrative action.
- 6 (2) If the automation of an administrative action is high risk, additional
7 requirements apply in relation to the automation under Part 5.

Division 2—Core prohibitions**18 Core prohibitions on automating administrative action**

- (1) A responsible entity for an administrative action must not authorise, or arrange for, the action to be automated if this section prohibits the automation of the action.

Prohibitions

- (2) An administrative action must not be automated if:
- (a) the automation would be likely to result in administrative action that is unlawful; or
 - (b) taking the administrative action requires the making of an evaluative determination (subject to subsection (3)); or
 - (c) automating the administrative action would unduly influence the exercise of a discretion by an individual under a Commonwealth law; or
 - (d) it is not possible to produce both a plain English explanation, and a technical explanation, of the outputs of the computer program that is used in the automation; or
 - (e) the automated administrative action would be likely to have an unjustified adverse impact on the human rights of individuals or groups (for instance on the right to privacy); or
 - (f) automating the administrative action is likely to have a significant adverse impact on Australia's democratic system or to undermine public confidence in government administration.
- (3) Paragraph (2)(b) does not apply in relation to an administrative action, or in relation to an evaluative determination, that is prescribed by the regulations for the purposes of this subsection.

1 **Division 3—Risk assessments**

2 **19 Requirements relating to risk assessments**

- 3 A responsible entity must not authorise, or arrange for, an
4 administrative action to be automated unless:
- 5 (a) the administering Department in relation to the
6 administrative action has conducted a risk assessment of the
7 automation in accordance with this Division; and
 - 8 (b) the risk assessment has been published, and remains
9 published, on the CAT Register.

10 **20 Risk classifications**

- 11 (1) A risk assessment of the automation of an administrative action
12 must give one of the following classifications to the automation:
- 13 (a) high risk;
 - 14 (b) not high risk.

15 *Automation that is high risk*

- 16 (2) The risk assessment must classify the automation of an
17 administrative action as high risk if the administrative action could
18 reasonably be expected to have a significant adverse effect on a
19 person, the community or the environment.

20 **21 Risk assessment to be undertaken in accordance with the**
21 **regulations**

- 22 (1) The risk assessment must be carried out in accordance with
23 regulations made for the purposes of this section.
- 24 (2) The regulations must be consistent with section 20.

22 Approval and publication of risk assessments*Approval by accountable authority*

- (1) When a risk assessment has been completed, the assessment must be approved in writing by the accountable authority of the Department that conducted the assessment.

Review by Ombudsman

- (2) If a risk assessment:
- (a) has been approved as mentioned in subsection (1); and
 - (b) classifies the automation of an administrative action as high risk;
- then the Department that conducted the assessment must refer the assessment to the Ombudsman for review.
- (3) The Ombudsman must, within 2 months of receiving a referral for review of a risk assessment, make a decision in writing either:
- (a) approving the assessment; or
 - (b) declining to approve the assessment.
- (4) If the Ombudsman does not make a decision under subsection (3) within 2 months of receiving the referral for review, the Ombudsman is taken to have approved the risk assessment.
- (5) If the Ombudsman declines to approve a risk assessment, the Ombudsman must provide the Department that conducted the assessment with a written statement setting out the reasons for the Ombudsman's decision.

Publication of risk assessment

- (6) If:
- (a) a risk assessment has been approved as mentioned in subsection (1); and
 - (b) if the risk assessment is required under subsection (2) to be referred to the Ombudsman—the Ombudsman has decided, or is taken to have decided, to approve the assessment;

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1 then the Department that conducted the risk assessment must
2 provide the assessment to the Ombudsman for publication on the
3 CAT Register.

4 (7) The Ombudsman must not publish a risk assessment on the CAT
5 Register unless the conditions in paragraph (6)(a) and (if
6 applicable) paragraph (6)(b) are satisfied in relation to the
7 assessment.

8 **23 Review of risk assessments**

- 9 (1) This section applies to a risk assessment of the automation of an
10 administrative action that is published on the CAT Register.
- 11 (2) The administering Department for the administrative action may
12 undertake a review of the risk assessment at any time.
- 13 (3) The administering Department for the administrative action must
14 undertake, and complete, a review of the risk assessment:
15 (a) if the risk assessment classifies the automation of the
16 administrative action as high risk—within 12 months after
17 the day on which the risk assessment is first published on the
18 register, and thereafter within 12 months after the day on
19 which the last review was completed; and
20 (b) otherwise—within 3 years after the day on which the risk
21 assessment is first published on the register, and thereafter
22 within 3 years after the day on which the last review was
23 completed.
- 24 (4) If, after completing a review, the administering Department
25 decides that the risk assessment does not need to be revised, the
26 risk assessment on the CAT Register must be updated to indicate
27 the date on which the review was completed.
- 28 (5) If, after completing a review, the administering Department
29 decides that the risk assessment should be revised:
30 (a) the administering Department must revise the risk
31 assessment; and
32 (b) for the purposes of this Act, the revised risk assessment is to
33 be treated as a new risk assessment; and

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- (c) to avoid doubt, section 22 (approval and publication of risk assessments) applies in relation to the revised risk assessment in the same way as it applies in relation to an initial risk assessment; and
- (d) if the revised risk assessment is published on the CAT Register in accordance with subsection 22(6), any existing risk assessment that it replaces must be removed from the register.

24 Removal of risk assessments from the register*Removal on request, or when assessment is replaced*

- (1) A risk assessment (the **existing assessment**) of the automation of an administrative action must be removed by the Ombudsman from the CAT Register if:
- (a) the administering Department in relation to the administrative action requests in writing that the existing assessment be removed; or
 - (b) a revised risk assessment is published on the register, and the revised assessment replaces the existing assessment (see paragraph 23(5)(d)).

Removal if risk assessment not updated

- (2) A risk assessment (the **existing assessment**) must also be removed by the Ombudsman from the CAT register:
- (a) in a case where the existing assessment classifies the automation of the administrative action as high risk—if the existing assessment is not updated as mentioned in subsection 23(4) within 18 months after the day when the existing assessment was first published on the register or was last updated (whichever is later); and
 - (b) otherwise—if the existing assessment is not updated as mentioned in subsection 23(4) within 3 years and 6 months after the day when the existing assessment was first published or was last updated (whichever is later).

Division 4—Human accountability, notification and explanation

25 Responsible officers

- (1) A responsible entity for an administrative action must not authorise, or arrange for, the automation of the action unless, under a Commonwealth law, there will be an individual (the **responsible officer** for the automated action) who is taken to be the person who took the automated action.
- (2) To avoid doubt, the condition in subsection (1) is satisfied if a Commonwealth law provides that the holder of a specified office or position is taken to be the person who took the automated action, so long as that specified office or position is held by an individual.

Note: The CAT Register must include information identifying the responsible officer for each high risk automated action (see section 34), but that information must not include any personal information about an individual (see subsection 37(4)).

26 Notification and explanation of automation

- (1) If:
- (a) a Commonwealth law requires a person (the **recipient**) to be notified of an administrative action; and
 - (b) the action is automated;
- then the notification given to the recipient must also include the following information:
- (c) a statement that the action was automated;
 - (d) an explanation of how the relevant computer program was involved in the taking of the action;
 - (e) an explanation of the legal authority for automating the action;
 - (f) a meaningful explanation of the basis for the action (see subsection (2));
 - (g) information about who the responsible officer for the automated action is;

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1 (h) information about any rights of review in relation to the
2 action;

3 (i) information about how to access the CAT Register and about
4 what is included on the CAT Register.

5 Note: On para (d): an administrative action is automated if a computer
6 program either took the action or did a thing that is substantially and
7 directly related to the taking of the action (see paragraph 8(2)(b)).

8 (2) For the purposes of paragraph (1)(f), an explanation of the basis for
9 the action is meaningful only if the explanation does all of the
10 following:

11 (a) explains the rules or criteria that were applied in taking the
12 action;

13 (b) explains the facts or circumstances that determined that the
14 action would be taken;

15 (c) identifies one or more different facts or circumstances that
16 would, if they had existed, have led to a different action
17 being taken;

18 (d) if the recipient requests a technical explanation of the
19 operation of the computer program used in taking in the
20 action—provides such a technical explanation, in a form that
21 could be assessed by a person with relevant technical
22 expertise.

Part 5—High risk automation

Division 1—Preliminary

27 Purpose of this Part

- (1) The purpose of this Part is to set out requirements that apply when the automation of an administrative action is high risk, but not in cases where the automation is not high risk.
- (2) Some of the requirements in this Part (those in Division 3 relating to the availability of internal and external review) only apply in relation to high risk automated decisions, and not in relation to other kinds of high risk automated administrative action.
- (3) The requirements in this Part apply in addition to, and do not limit, the requirements in Part 4.

Division 2—Safeguards for high risk automation

28 Preparation by administering Department and accountable authority

- (1) If automating an administrative action is high risk, a responsible entity for the action must not authorise, or arrange for, the action to be automated unless:
- (a) the administering Department in relation to the administrative action has obtained written legal advice that the automation is lawful; and
 - (b) the accountable authority for the administering Department is satisfied, on reasonable grounds, that the computer program to be used in the automation:
 - (i) will take into account all relevant considerations, and will not take into account any irrelevant consideration; and
 - (ii) will not fetter the discretion of any individual who is involved in taking the administrative action; and
 - (iii) will operate consistently with procedural fairness; and
 - (iv) will apply, or otherwise operate consistently with, the law as in force at the time when the action is taken; and
 - (c) the accountable authority for the administering Department is satisfied that the computer program to be used in the automation has been tested for accuracy against the correct application of the law, for differential outcomes across cohorts, and for behaviour where inputs are missing or out of range; and
 - (d) if the computer program being used in the automation will be supplied, operated or maintained by a third party—the accountable authority of the administering Department is satisfied that the Commonwealth has a legally enforceable right to obtain, from that third party, any information that is needed in order for a responsible entity to comply with this Act, or any other Commonwealth law, in relation to the automated administrative action; and
 - (e) the accountable authority for the administering Department:

Section 29

- 1 (i) certifies in writing that the accountable authority is
2 satisfied as mentioned in paragraphs (b) to (d); and
3 (ii) makes a written record of the grounds for being satisfied
4 as mentioned in paragraphs (b) to (d); and
5 (f) the administering Department has:
6 (i) consulted people (or organisations representing people),
7 who are likely to be disproportionately affected by the
8 automated administrative action; and
9 (ii) consulted with people (or organisations representing
10 people) who will interact with, or administer, the
11 computer program being used in the automation.
- 12 (2) To avoid doubt, the Commonwealth does not have a legally
13 enforceable right, of the kind mentioned in paragraph (1)(d), if the
14 third party has a right not to provide the Commonwealth with
15 information of the kind mentioned in that paragraph on the grounds
16 that the information is commercial-in-confidence.

17 *Retaining documents*

- 18 (3) The administering Department in relation to the administrative
19 action must ensure that the following documents:
20 (a) the written legal advice mentioned in paragraph (1)(a);
21 (b) the written certification and record mentioned in
22 paragraph (1)(e);
23 are retained for the period prescribed by the regulations.
- 24 (4) Subsection (3) does not affect any requirement that applies under
25 any other Commonwealth law in relation to dealing with the
26 documents mentioned in that subsection.

27 **29 Substituting actions**

- 28 If automating an administrative action is high risk, a responsible
29 entity for the administrative action must not authorise, or arrange
30 for, the automation of the action unless, under a Commonwealth
31 law:
32 (a) there is an individual that may take an action (a ***substituting***
33 ***action***) in substitution for the automated action, if the

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individual is satisfied that the automated action is not correct or preferable; and

- (b) at least one of the individuals who may take a substituting action, as mentioned in paragraph (a), is an individual who was empowered to take the action that has been automated (and so could have taken that action if the action had not been automated).

30 Complaints process

- (1) If the automation of an administrative action is high risk, a responsible entity for the action must not authorise, or arrange for, the action to be automated unless a Commonwealth law provides for a complaints process that applies in relation to the automated action and satisfies the requirements in subsections (2) to (4).

Note: The complaints processes dealt with in this section are separate from the review processes dealt with in Division 3 of this Part.

- (2) The complaints process must be administered by the Department that administers the provision of the Commonwealth law under which the automated action is taken.
- (3) The complaints process must allow for complaints to be made by:
- (a) any person whose interests are affected by the automated action; and
 - (b) any responsible entity in relation to the automated action.
- (4) The complaints process must:
- (a) acknowledge a complaint within 5 business days after the day on which the complaint is lodged; and
 - (b) provide a substantial response to a complaint within 30 business days after the day on which the complaint is lodged.

Providing information to Ombudsman

- (5) The Ombudsman may, by notice in writing, request that the Department that administers the complaint process provide to Ombudsman any information relating to the process that is specified in the notice, within the period (if any) specified in the notice.

Section 31

1 (6) The Department must comply with the notice.

2 **31 Other safeguards prescribed by the regulations**

3 (1) If automating an administrative action would be high risk, a
4 responsible entity for an administrative action must not authorise,
5 or arrange for, the action to be automated if:

- 6 (a) regulations made for the purposes of this paragraph specify
7 requirements in relation to the action; and
8 (b) those requirements are not satisfied in relation to the action.

9 (2) Without limiting paragraph (1)(a), regulations made for the
10 purposes of that paragraph may specify additional requirements
11 relating to the following:

- 12 (a) substituting actions for high risk automated actions, as
13 mentioned in section 29;
14 (b) the complaints processes relating to high risk automated
15 actions, as mentioned in section 30.

Division 3—Review rights for automated decisions

32 Internal merits review

- (1) A responsible entity for an administrative decision must not authorise, or arrange for, the decision to be automated unless:
- (a) a Commonwealth law provides for a process of internal review in relation to the automated decision (including in relation to any decision that is substituted for the automated decision as mentioned in section 29); and
 - (b) that internal review process satisfies:
 - (i) the requirements set out in this section; and
 - (ii) any requirements prescribed by the regulations for the purposes of this subparagraph.

Internal review on application

- (2) The internal review of the decision must be initiated by an application by a person affected by the decision.

Full merits review

- (3) The person (the **reviewer**) conducting the internal review of the automated decision must have the power to make a decision (a **decision on review**) to:
- (a) affirm the automated decision; or
 - (b) set aside the automated decision, and substitute a new decision (the **substituting decision**), with effect from the time specified by the reviewer.
- (4) The reviewer:
- (a) must not affirm the automated decision unless the reviewer is satisfied that the automated decision is the correct and preferable decision; and
 - (b) if the reviewer decides to set aside the automated decision and make a substituting decision—must be satisfied that the substituting decision is the correct and preferable decision; and

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- 1 (c) subject to any restrictions imposed by the legislation that
2 confers the power to make the decision—may consider any
3 relevant information available to the reviewer at the time of
4 the review, whether or not that information:
5 (i) was available at the time when the automated decision
6 was made; or
7 (ii) was used by the computer program that was used to
8 make the automated decision; and
9 (d) must not, in conducting the review, make use of the computer
10 program that was used to make the automated decision.

11 *Timing of internal review*

- 12 (5) The internal review process must be such that:
13 (a) in relation to an automated decision prescribed by the
14 regulations for the purposes this paragraph—a decision on
15 review is made within 2 weeks after the day on which the
16 application for review is made; and
17 (b) in relation to any other automated decision—a decision on
18 review is made within 4 weeks after the day on which the
19 application for review is made.
20 (6) The regulations may prescribe an automated decision for the
21 purposes of paragraph (5)(a) only if the Minister administering the
22 legislation under which the automated decision is made is satisfied
23 that a delay of more than 2 weeks may cause serious and
24 irreversible harm to a person affected by the automated decision.

25 **33 External merits review and judicial review**

26 *External merits review*

- 27 (1) A responsible entity for an administrative decision must not
28 authorise, or arrange for, the decision to be automated unless a
29 Commonwealth law provides for the automated decision (and any
30 decision that is substituted for the automated decision as mentioned
31 in section 29 or subsection 32(3)) to be reviewed by the
32 Administrative Review Tribunal.

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- 1 (2) If the automated decision is subject to an internal review process
2 that satisfies the condition in paragraph 32(1)(b), the
3 Commonwealth law that provides for review of the decision by the
4 Administrative Review Tribunal may provide that review by that
5 tribunal is not available until an internal review of the decision has
6 been completed.

7 *Judicial review*

- 8 (3) A responsible entity for an administrative decision must not
9 authorise, or arrange for, the decision to be automated unless the
10 automated decision (and any decision that is substituted for the
11 automated decision as mentioned in section 29 or subsection 32(3))
12 is subject to one or both of the following:
13 (a) review by a court under the *Administrative Decisions*
14 *(Judicial Review) Act 1977*;
15 (b) review by a court exercising jurisdiction under section 39B
16 of the *Judiciary Act 1901*.

17 Note: A Commonwealth law cannot exclude review by the High Court
18 exercising jurisdiction under paragraph 75(v) of the Constitution.

Division 4—Transparency

34 Publication of information about high risk automation

Publication on CAT Register

- (1) If the automation of an administrative action is high risk, a responsible entity for the action must not authorise, or arrange for, the action to be automated unless all of the following information is entered on the CAT Register:
- (a) information identifying the provision of the Commonwealth law under which the automated action is taken;
 - (b) an explanation of the legal authority for automating the action;
 - (c) an explanation of the reasons why the action has been automated;
 - (d) an explanation of why the automation of the action is high risk;
 - (e) information about whether the automated action can be overridden by a human action, and the circumstances in which that may or must happen;
 - (f) information identifying the responsible officer for the automated action;
 - (g) information about the computer program that is used to take the automated action, including:
 - (i) information about any rules or algorithms used by the computer program; and
 - (ii) if the computer program takes into account different considerations in deciding which action to take—details of those considerations and of how they are taken into account (including details of the weight given to each consideration by the program); and
 - (iii) details of how the computer program has been and will be tested, including the date of the last test;
 - (h) a contact point for inquiries about the automation of the action;

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- 1 (i) information about rights of review in relation to the
2 automated action (and in relation to any action that is
3 substituted for the automated action).

4 Note: The CAT Register is maintained by the Ombudsman and published on
5 the Ombudsman's website: see section 37.

6 *Publication on Department's website*

- 7 (2) If any high risk automated actions are being taken under legislation
8 administered by a Department, the Department must ensure that all
9 of the information mentioned in subsection (1) is published on the
10 Department's website in respect of each such action.

11 *Exceptions*

- 12 (3) Subsections (1) and (2) do not apply in relation to information
13 mentioned in subsection (1) to the extent that publishing that
14 information on the CAT Register, or on the Department's website,
15 would undermine the purpose of, or the administration of, the
16 legislation under which the automated action is taken.
- 17 (4) A responsible entity, or a Department, that relies on subsection (3)
18 in relation to particular information must, on written request by the
19 Ombudsman, provide a written explanation to the Ombudsman of
20 why publishing that information would undermine the purpose of,
21 or the administration of, the legislation under which the automated
22 action is taken.
- 23 (5) If a responsible entity, or a Department, provides an explanation to
24 the Ombudsman as mentioned in subsection (4):
25 (a) the Ombudsman may publish the Ombudsman's assessment
26 of that explanation on the Ombudsman's website; and
27 (b) in deciding whether to publish its assessment, the
28 Ombudsman must have regard to whether doing so would
29 undermine the purpose of, or the administration of, the
30 legislation under which the automated action is taken.

Section 35

35 Record keeping by Commonwealth entities

- (1) Each Commonwealth entity that is a responsible entity for a high risk automated administrative action must keep records sufficient to enable it to be readily ascertained whether the following have complied with their obligations under this Part:
- (a) the Commonwealth entity;
 - (b) the accountable authority of the Commonwealth entity;
 - (c) the officials of the Commonwealth entity;
 - (d) any consultant or independent contractor of the Commonwealth entity.
- (2) Records kept under subsection (1) that relate to a particular automated administrative action must be kept for at least 7 years after the action takes place.

36 Annual reports by Departments

Each annual report that a Department prepares for the purposes of section 46 of the *Public Governance, Performance and Accountability Act 2013* must include the following information in relation to high risk automated actions taken under legislation administered by the Department:

- (a) the number and kinds of actions (*substituting actions*) that have been taken, as mentioned in section 29 or subsection 32(3), in substitution for high risk automated actions during the period;
- (b) the proportion of high risk automated actions taken during the period in relation to which a substituting action has been taken during the period.

1 **Part 6—Other matters**
2

3 **37 Commonwealth Automated Tools Register**

- 4 (1) The Ombudsman must maintain a register, to be known as the
5 Commonwealth Automated Tools Register (the ***CAT Register***), for
6 the purposes of this Act.
- 7 (2) The Ombudsman must ensure that the CAT Register is published
8 on the Ombudsman’s website and is freely available to all
9 members of the public.
- 10 (3) For the purposes of this Act, information is not taken to be entered
11 on the CAT Register until the information is published on the
12 Ombudsman’s website as a part of the CAT Register.

13 *No personal information*

- 14 (4) The CAT Register must not contain personal information about an
15 individual.

16 **38 Reviews by the Ombudsman**

- 17 (1) The Ombudsman may decide at any time to review an automated
18 administrative system (see subsection (10)), either on the
19 Ombudsman’s own initiative or in response to a complaint.
- 20 (2) The Ombudsman:
21 (a) must, at least once every 12 months, review a risk-weighted
22 sample of high risk automated administrative systems; and
23 (b) must review each high risk automated administrative system
24 at least once every 3 years.

25 *Powers and functions etc.*

- 26 (3) The Ombudsman is to have, in relation to a review of an automated
27 administrative system, the powers and functions prescribed by the
28 regulations for the purposes of this section.

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- 1 (4) Regulations made for the purposes of this section may provide for
2 the protection of individuals in connection with an Ombudsman's
3 review of an automated administrative system, including (but not
4 limited to) individuals who:
5 (a) make complaint to the Ombudsman in relation to the
6 operation of an automated administrative system; or
7 (b) provide information to the Ombudsman in connection with a
8 review.

9 *Reporting on reviews*

- 10 (5) Within one month after completing a review of an automated
11 administrative system, the Ombudsman must provide a written
12 report of the review to each Department that is administering
13 Department for administrative action that is automated by the
14 system.

15 *Annual reporting*

- 16 (6) The Ombudsman must, within 3 months after the end of each
17 calendar year, provide a written report (an **annual report**) to the
18 Minister on the reviews conducted by the Ombudsman for the
19 purposes of this section during the calendar year.
- 20 (7) An annual report must include any information prescribed by the
21 regulations for the purposes of this subsection.
- 22 (8) An annual report must be accompanied by a report (a **funding**
23 **report**) by the Ombudsman on the adequacy of the funding
24 available to the Ombudsman for reviews for the purposes of this
25 section. The funding report may contain recommendations by the
26 Ombudsman about the appropriate level of funding for such
27 reviews.
- 28 (9) The Minister must, within 3 months after the day on which the
29 Minister receives a funding report, cause a copy of the report, and
30 the Minister's response to report, to be tabled in each House of the
31 Parliament.

Section 39

Definitions

(10) In this section:

automated administrative system means a system that automates the taking of administrative action, if any of the resulting automated administrative action is automated administrative action to which this Act applies (see sections 14 and 15).

high risk automated administrative system: an automated administrative system is a ***high risk automated administrative system*** if any of the automation undertaken by the system is high risk.

39 Independent statutory reviews

- (1) The Minister must cause independent reviews to be conducted of the operation of this Act, in accordance with this section.
- (2) The first review must be completed within the period of 3 years starting on the day when this Act commences, and each subsequent review must be completed within the period of 3 years starting on the day after the day when the previous review was completed.
- (3) Without limiting the matters that may be considered by a review, each review must consider whether the rules governing risk assessments (including the criteria for classifying the automation of an administrative action as high risk) continue to be appropriate.
- (4) A written report of each review must be given to the Minister as soon as practicable after the review is completed.
- (5) The Minister must cause a copy of the report of each review to be tabled in each House of the Parliament within 15 sitting days of that House after the Minister receives the report.

40 Regulations

The Governor-General may make regulations prescribing matters:
(a) required or permitted by this Act to be prescribed by the regulations; or

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- 1 (b) necessary or convenient to be prescribed for carrying out or
2 giving effect to this Act.

Part 7—Transitional arrangements

41 Commencement day

In this Part, the *commencement day* is the day when this Act commences.

42 General rule

Subject to this Part, this Act applies in relation to an automated administrative action that takes place after the end of the period of 12 months starting on the commencement day.

Note: The effect of this section is generally that, subject to this Part, a responsible entity must not authorise, or arrange for, an administrative action that takes place after the end of the 12-month period to be automated, unless the requirements in this Act are satisfied.

43 Specific rules—core prohibitions

Division 2 of Part 4 applies in relation to an automated administrative action that takes place on or after the commencement day.

Note: The effect of this section is that a responsible entity must not authorise, or arrange for, an administrative action that takes place on after the commencement day to be automated, unless the requirements in section 18 are satisfied.

44 Specific rules—risk assessments

- (1) An administering Department may conduct a risk assessment at any time.
- (2) The following provisions apply in relation to risk assessments completed on or after the commencement day:
 - (a) section 22 (approval and publication of risk assessments);
 - (b) section 23 (review of risk assessments);
 - (c) section 24 (removal of risk assessments from the register).

Section 45

45 Specific rules—reviews by the Ombudsman

- (1) Subsection 38(2) (which requires the Ombudsman to periodically review high risk automated administrative systems) applies as follows:
 - (a) for the purposes of paragraph 38(2)(a), the first 12-month period starts immediately after the end of the period of 12 months starting on the commencement day;
 - (b) for the purposes of paragraph 38(2)(b), the first 3-year period starts immediately after the end of the period of 12 months starting on the commencement day.
- (2) Subsections 38(6) to (9) (which deal with annual reporting by the Ombudsman) apply in relation to calendar years starting after the end of the period of 12 months starting on the commencement day.