

Multicultural Recognition Bill 2011

Explanatory Notes

Short title

The short title of the Bill is the *Multicultural Recognition Act 2011*.

Policy objectives and the reasons for them

The objectives of the Bill are:

- (a) to recognise the diversity of the people of Queensland and the valuable contribution of diverse groups to the Queensland community.
- (b) to promote Queensland as a united, harmonious and inclusive community by establishing the multicultural charter; and
- (c) to ensure government services are responsive to the diversity of the people of Queensland by—
 - (i) providing for the multicultural action plan; and
 - (ii) establishing reporting arrangements for departments; and
 - (iii) establishing the council.

The Queensland Government announced its intention to develop legislation to recognise the Queensland Multicultural Policy's multicultural principles, planning and reporting arrangements with the release of the Queensland Multicultural Policy – A multicultural future for all of us.

The new policy followed a review of the 2004 multicultural policy and a realisation that Queensland was experiencing demographic changes and evidence indicating that some Queenslanders from refugee backgrounds and new and emerging communities were more likely to experience high rates of disadvantage such as long-term unemployment, lack of access to services, poor health and family breakdown.

There was strong support expressed through the community consultation for the review of the policy, for legislation to be developed to underpin and reinforce the Policy. This was supported by submissions from Ethnic

Communities Council of Queensland and Multicultural Development Association.

Achievement of policy objectives

To achieve its objectives, the Bill will establish the Multicultural Queensland Advisory Council and set out its functions. The Bill also achieves its objectives by requiring the Minister for Multicultural Affairs to develop three-year multicultural action plans and outlining the content of these plans including implementing the multicultural charter and objectives of the multicultural policy. The Bill also provides for reporting obligations to monitor performance against the plan.

An analysis of agencies' performance reports under the 2004 policy, *Multicultural Queensland - making a world of difference*, indicated areas in which the policy could be improved:

- activities and initiatives that generally improve outcomes for people from culturally and linguistically diverse (CALD) backgrounds through the use of evidence.
- some departments misunderstand who the policy applies to and include initiatives relating to Aboriginal and Torres Strait Islander peoples.
- consideration of the particular needs of people from CALD backgrounds in delivering services and programs, in particular when communicating in English is a difficulty, and ensuring that strategies to address these needs are incorporated into relevant planning and policy development.
- inadequate data capture systems with limited or no capacity to capture the extent of an agency's client base that are from a CALD background and therefore limited capacity to effectively plan and budget for client needs.

Therefore the Bill has been developed to ensure that Government service delivery better meets the needs of culturally and linguistically diverse communities.

Alternative ways of achieving policy objectives

The Department of Communities released a discussion paper, *A multicultural future...for all of us*, in October 2009 for public consultation

seeking stakeholders' views on strategies that further build on the economic benefits of cultural diversity, improve access to services, foster community development and participation, and strengthen Queensland's multicultural identity. The discussion paper also sought feedback on mechanisms to improve the effectiveness of multicultural policy implementation, including legislation to strengthen multiculturalism.

Options other than the Bill canvassed were:

- Updated Policy - Adopt the Queensland Multicultural Policy, A multicultural future for all of us. This option is consistent with the status quo but updated to reflect current needs.
- Multicultural Commission - Adopt the Queensland Multicultural Policy supported by a Multicultural Commission to oversee implementation of the policy. Legislation would also be required to establish the Commission as a statutory authority.
- enhancing existing policy, planning and performance reporting arrangements across government (i.e. to address areas of perceived deficiencies)

Consultation confirmed that the majority of stakeholders supported the legislation option due to the following reasons:

- it provides an opportunity for the Queensland Government and Parliament to reaffirm the Australian approach to multiculturalism which emphasises citizenship, diversity, harmony and a 'fair go'.
- legislation can be an effective tool for achieving outcomes
- it could enshrine a set of guiding principles for Queensland, and
- may strengthen reporting requirements by government departments.

The majority of stakeholders were also supportive of updating the Queensland Multicultural Policy and enhancing planning and performance reporting arrangements.

Estimated cost for government implementation

The State Government will not incur any additional cost in establishing the Multicultural Queensland Advisory Council as it is replacing an existing advisory committee and members will not be remunerated.

In developing multicultural action plans, Government departments will assess the resource requirements of individual actions when contributing to the plan.

Consistency with fundamental legislative principles

The Bill is generally consistent with fundamental legislative principles. Potential breaches of fundamental legislative principles are addressed below.

Clause 13 Vacation of office

Clause 13 of the Bill allows for the Minister to end the appointment of a member of the council. There is a potential breach of fundamental legislative principles in so far as it affects the rights of individuals who are members of the council.

To address this potential breach, Clause 13 includes a list of criteria for when the Minister may end an appointment which relate to the ability of the member to perform their duties in relation to the Council.

Consultation

Community

No external consultation was conducted.

Government

The following Government departments were consulted and support the Bill: the Department of the Premier and Cabinet; Queensland Treasury; the Department of Justice and Attorney-General, Department of Local Government and Planning, Department of Public Works, Queensland Health, Department of Community Safety, Department of Environment and Resource Management, the Queensland Police Service and the Department of Education and Training.

The Department of Employment, Economic Development and Innovation and the Department of Transport and Main Roads were also consulted.

Consistency with legislation of other jurisdictions

The introduction of new legislation in Queensland will bring the state in align with New South Wales, Victoria, and South Australia, which have existing principle based legislation regarding multiculturalism.

However the Bill differs from legislation in other states as it does not establish a multicultural commission.

There is no national legislation relating to multiculturalism.

Notes on provisions

Part 1 Preliminary

Clause 1 states that, when enacted, the Bill will be cited as the *Multicultural Recognition Act 2011*.

Clause 2 provides for the commencement of Part 6 of the Act following the commencement of the *Health and Hospitals Network Act 2011*.

Clause 3 states that the Act covers all persons including the state.

Clause 4 outlines the purpose of the Act including recognising the diversity of the people of Queensland; establishing the Multicultural Queensland Charter; and providing mechanisms to ensure that Queensland Government services are responsive to this diversity, such as establishing the Multicultural Queensland Advisory Council, multicultural action plans, requiring staff of departments to be aware of the Multicultural Queensland Charter and reporting arrangements for departments.

Clause 5 provides for the definition of certain terms in the Act including diversity and employees, which means public service employees, and employees appointed under the Ambulance Service Act 1991, Fire and Rescue Service Act 1990 and the Health Services Act 1991.

Clause 6 clarifies that the Act will not create any new rights or impose legally enforceable obligations on individuals or the state. It also provides that if there is a conflict with another Act, the provisions of this Act do not override the other Act. This is to ensure there is no conflict with existing legislation such as the *Anti-Discrimination Act 1991*.

Part 2 Multicultural Queensland charter

Clause 7 provides for the Multicultural Queensland Charter which is set out in the schedule.

Part 3 Multicultural Queensland Advisory Council

Clause 8 establishes the Multicultural Queensland Advisory Council.

Clause 9 sets out that the function of the Multicultural Queensland Advisory Council is to provide the Minister for Multicultural Affairs with advice on how to:

- encourage awareness of the Multicultural Queensland Charter within the community,
- develop and implement government policies about multiculturalism,
- deliver services that consider the needs of people from culturally and linguistically diverse backgrounds , and

The Council will also provide advice on the particular needs, goals and contributions of people from culturally and linguistically diverse backgrounds and any other functions directed by the Minister.

Clause 10 establishes that members of the Council will be appointed by signed notice and that the Council should be representative of the diverse groups of people in Queensland.

Clause 11 states that members of the Council will be appointed for a period of up to 3 years and reappointment for a maximum of 6 years (two terms).

Clause 12 appoints the Minister for Multicultural Affairs as the chairperson of the Council and that the Minister may delegate the responsibility of chair to another person, including the Parliamentary Secretary for Multicultural Affairs, a member of the council or an appropriately qualified public servant.

Clause 13 provides the criteria for when a member's office becomes vacant either at the instigation of the member or the Minister.

Clause 14 provides guidance around the general running of the Council including when meetings are held, and that the chairperson will preside over meetings unless absent.

Clause 15 states that the Council will keep minutes of its meetings and decisions.

Part 4 Responsibilities of the Minister and departments

Clause 16 provides that the Minister for Multicultural Affairs will develop a plan to implement the principles of the Multicultural Queensland Charter and priorities of the multicultural policy. This plan will be developed in collaboration with all departments.

This clause also states that the purpose of the plan is to provide a coordinated whole-of-government approach to the development of policies and provision of services to people from culturally, religiously and linguistically diverse backgrounds.

This clause also allows for the Minister to include in the multicultural action plan a set of core outcomes that all departments must address.

Clause 17 provides that the first plan under the Act will commence by 1 July 2014 with further plans developed at least every three years.

Clause 18 provides that a report on the implementation of the multicultural action plan and outcomes must be tabled in the Legislative Assembly by the Minister for Multicultural Affairs as soon as practicable after the end of the plan (three years after the plan was released).

Clause 19 provides a responsibility on chief executives of departments to ensure their staff are aware of the Multicultural Queensland Charter.

Clause 20 places a responsibility on staff of departments to ensure that they consider the Multicultural Queensland Charter when developing policy or providing services.

Clause 21 provides that departments must include information about their progress in implementing the multicultural action plan in their annual report.

Clause 22 states that a department may choose to develop a departmental specific multicultural action plan, and that this should include how the department will implement key priorities in the multicultural action plan (clause 16).

Part 5 Miscellaneous

Clause 23 provides that the Governor in Council may make regulations under the Act.

Part 6 Amendment of this Act

Clause 24 allows for the amendment of the Act.

Clause 25 specifies the section of the Act which requires amendment, relating to the definition of employees.

Schedule 1 The Multicultural Queensland Charter

The schedule sets out the principles of a multicultural Queensland that the Parliament is committed to upholding.