

Multicultural Recognition Bill 2015

Explanatory Notes

Short title

The short title of the Bill is the *Multicultural Recognition Act 2015*.

Policy objectives and the reasons for them

The purposes of the Bill are:

- (a) to recognise the valuable contribution of diverse groups of people to the Queensland community;
- (b) to promote Queensland as a united, harmonious and inclusive community by establishing the multicultural charter; and
- (c) to ensure services provided by government entities are responsive to the diversity of the people of Queensland by —
 - (i) establishing the Multicultural Queensland Advisory Council; and
 - (ii) providing for the multicultural policy and action plan; and
 - (iii) requiring that employees of government entities be made aware of the multicultural charter, multicultural policy and multicultural action plan; and
 - (iv) establishing reporting obligations for particular government entities.

The Queensland Government made an election commitment during the 2015 campaign to develop legislation to ensure that State Government policies, programs and services recognise and respond to Queensland's growing culturally and linguistically diverse population.

Despite the benefits that migration brings to Queensland, newly arrived migrants are often disadvantaged in participating in the economy. Evidence suggests that newly arrived migrants have some of the highest rates of unemployment.

In addition, community cohesion may be adversely affected by the impact of national and international events including overseas conflicts, heightened security protocols and local events.

The Bill provides a robust instrument to strengthen multicultural policy, program development and implementation across government, which will support people from culturally and linguistically diverse backgrounds to live in communities that are inclusive with equitable access to services and opportunities.

Achievement of policy objectives

To achieve its objectives, the Bill will introduce a Multicultural Queensland Charter (the Charter) that is supported by the Parliament and articulates principles promoting harmony and inclusion. The Bill will also achieve its objectives by establishing a Multicultural Queensland Advisory Council (the Advisory Council) to provide advice on the issues and

barriers facing Queenslanders from culturally and linguistically diverse backgrounds and how these can be addressed, including the economic participation of migrants and refugees. The Advisory Council will also assist in ensuring that Queensland Government policies, programs and services are responsive, equitable and inclusive for all Queenslanders.

The Advisory Council will be transparent and accountable, as a summary of issues discussed and decisions made at its meetings will be publicly available following each meeting. Culturally and linguistically diverse communities can ensure that their views and concerns are being represented by the Advisory Council.

The Bill will also provide a requirement for the Queensland Government to have a multicultural policy and action plan, to embed the principles of the Charter in the work of government, set outcomes for government action, and provide a coordinated whole-of-government approach to developing policies and providing services to people from culturally and linguistically diverse backgrounds.

The Bill will strengthen government reporting requirements to include reporting on outcomes of the policy, as well as implementation of the action plan. This will allow monitoring of progress of these outcomes, ensuring the Government is achieving positive change for the community. It will also identify where Government intervention continues to be needed or where investment can be realigned and services improved.

There is currently limited readily available data to manage and plan for the service needs of migrants and humanitarian arrivals. A project to identify current cultural diversity indicators being used in administrative data collections across government found that many departments had the means to capture some culturally and linguistically diverse customer information. However, the extent and comprehensiveness of this information varied across departments.

The Bill requires the multicultural policy to provide for a consistent approach across government for collecting statistical information on the cultural and linguistic diversity of Queensland Government customers. This will lead to improved services for the future by building a better evidence base on the needs of culturally and linguistically diverse customers and by ensuring that policies, programs and services are responsive to the multicultural reality of Queensland.

This will allow government to more effectively target the customers most in need, more accurately identify their needs, clearly articulate the outcomes to be achieved and provide for better evaluation and performance monitoring to identify further improvements and better ways to target investment.

Including a requirement in the legislated multicultural policy will raise the priority of capturing culturally and linguistically diverse customer information, and improve the understanding across government regarding the importance of data to inform culturally responsive service delivery.

Alternative ways of achieving policy objectives

Options other than the Bill canvassed were:

- No legislation and no multicultural policy: while this option would reduce reporting requirements for government, the lack of a coordinated government policy direction that would result and community expectations that Queensland would continue to have a multicultural policy, rules out this option.
- Develop a new multicultural policy without a legislative base: this is the current situation and although it directs departments' actions to address service delivery issues for people from culturally and linguistically diverse communities, having a legislative basis for the policy will strengthen support for implementation across government.
- Establish a Multicultural Commission as in Victoria and New South Wales: this option would be well received as it would be perceived as independent and potentially more accountable than a government department. However, this option was rejected as the cost of establishing a commission would outweigh the benefits.

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

- improve cultural capability across Government service delivery;
- complement the *Anti-Discrimination Act 1991*;
- improve collection and reporting of cultural diversity data across Government;
- have a positive impact on the community through sharing the principles in the Charter
- be an effective tool for achieving improved outcomes;
- enshrine a set of guiding principles for Queensland; and
- strengthen requirements for government entities to report on how they are implementing the multicultural policy.

Estimated cost for government implementation

The 2015-16 Queensland State Budget provided recurrent funding of \$770,000 per annum to the Department of Communities, Child Safety and Disability Services to support the implementation of the proposed Bill. This will include secretariat support to the Multicultural Queensland Advisory Council, whole-of-government multicultural policy and action plan coordination and monitoring, working with Government agencies to improve service delivery for culturally and linguistically diverse clients, stakeholder engagement, and project management of new initiatives.

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 consistent with fundamental legislative principles.

Consultation

Community

Consultation with key stakeholders was undertaken through targeted forums held across the State to ensure that provisions in the proposed Bill reflect contemporary community views on promoting community harmony and inclusiveness. Seven forums were held during 2015 in: Cairns on 4 August; Toowoomba on 5 August; Townsville on 6 August; Logan on 7 August; Rockhampton on 11 August; Mount Isa on 13 August; and in Brisbane on 14 August. The feedback from stakeholders on the proposed Bill was very positive, reinforcing the need for the legislation and providing suggestions on ways to improve it.

An interim Multicultural Community Reference Group (the Reference Group) was established to support development of the Bill, the proposed multicultural policy and related action plan and to ensure that the policy and action plan meet the needs of culturally diverse communities in Queensland. The Reference Group was consulted on 11 June and 20 August on the draft Bill.

There was strong support expressed through consultations on the Bill, for legislation to be developed to recognise and promote multiculturalism. This was supported by the interim Multicultural Community Reference Group.

Government

All Government departments and the Anti-Discrimination Commission were consulted on the draft Bill.

Consistency with legislation of other jurisdictions

The introduction of new legislation in Queensland will bring the state in alignment 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 2015*.

Clause 2 provides for the Act to commence by proclamation.

Clause 3 outlines the purposes of the Act.

Clause 4 states that the Act binds all people including the State.

Clause 5 provides for the definition of certain terms in the Act. Diversity is defined to include religious, as well as cultural and linguistic diversity. Government entity is defined by reference to section 24 of the *Public Service Act 2008* and includes all Queensland Government departments and statutory bodies but excludes Government Owned Corporations and local governments. Non-government organisations funded to deliver services on behalf of government departments are also excluded from this definition.

Clause 6 clarifies that the Act will not create any new rights or impose legally enforceable obligations on individuals or the state. This also means that a person cannot take civil court action (for example, a claim for compensation) for contravention of the principles in the Charter. Subsection (3) refers to administrative decisions made within government which are usually subject to accountability mechanisms (for example, under the *Judicial Review Act 1991*). This clarifies that if a person is aggrieved by an administrative decision, that the person cannot assert that the decision is invalid because of non-compliance with the Act.

Clause 6 also provides that if there is a conflict with another Act, the provisions of the Multicultural Recognition 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*. If a person suffers discrimination or racial or religious vilification, this should be dealt with under the *Anti-Discrimination Act 1991*.

Part 2 Multicultural Queensland Charter

Clause 7 provides for the Multicultural Queensland Charter (the Charter) which is set out in schedule 1.

Part 3 Multicultural Queensland Advisory Council

Clause 8 establishes the Multicultural Queensland Advisory Council (the Advisory Council).

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

- address the needs, aspirations and contributions of people from diverse backgrounds;
- raise awareness of the Charter within the community;
- develop and implement government policies about multiculturalism; and

- deliver services and programs funded by Government that consider the needs of people from diverse backgrounds.

The Council will also consult with any group as directed by the Minister. This may include culturally and linguistically diverse communities, service organisations and other industry and interest groups which impact on the lives of people from culturally and linguistically diverse backgrounds. The Act provides examples of relevant groups, however it is not an exhaustive list.

The Minister can also direct the Advisory Council to undertake any other functions. This may include reviewing and providing advice on implementation of the multicultural policy and action plan.

Clause 10 establishes that members of the Advisory Council will be appointed by the Minister and will consist of 11 members plus the Minister. In appointing the members of the Council, the Minister must have regard to the need for membership of the Council to be representative of the diverse groups of people in Queensland, including in regional areas, and the need for balanced gender representation.

Members will be appointed on an individual basis having demonstrated that they have the skills and expertise to undertake the functions of a member of the Advisory Council. An expression of interest process, including calling for public nominations with clear selection criteria outlining the required skills and expertise, will be undertaken to recruit members. In addition to representing diverse groups, the Minister may appoint members with skills relating to business, governance, community service or other skills needed to assist the Council.

Clause 11 provides for the reasons why a person may be disqualified from becoming or continuing as a member of the Advisory Council. As the Minister appoints members of the Advisory Council, the Minister will also decide if a member is disqualified according to this section.

Clause 12 states that members of the Advisory Council will be appointed for a period of up to 3 years and, if reappointed, for a maximum of 6 years.

Clause 13 provides for members of the Advisory Council to be remunerated as decided by the Minister and to hold office on conditions decided by the Minister subject to the Act.

Clause 14 appoints the Minister as the chairperson of the Advisory Council and provides that the Minister may delegate the responsibility of chair to another person, including a member of the Council, or a member of the Legislative Assembly or an appropriately qualified public servant.

Clause 15 provides the criteria for when a member's office becomes vacant, which may be at the instigation of the member or the Minister. Section 25 of the *Acts Interpretation Act 1954* provides that if legislation authorises a person to make an appointment, the power includes the power to remove or suspend a person from the appointment at any time. As the Bill allows the Minister to appoint members of the Advisory Council, the *Acts Interpretation Act* provision gives the Minister the power to remove or suspend the member, including if the person is no longer considered suitable for the position.

Clause 16 provides guidance about the general running of the Advisory Council including when meetings are held, that the chairperson will preside over meetings unless absent and who presides over the meeting in the Minister's absence. Subsection (6) allows the Advisory Council to conduct meetings as it considers appropriate. This provides a mechanism for the Advisory Council to invite others to attend meetings, for example, people with particular expertise or to present on specific matters.

The Advisory Council will be supported in its operation by the department responsible for Multicultural Affairs.

Clause 17 states that the Advisory Council will keep minutes of its meetings and a record of decisions.

Clause 18 requires that a summary of each meeting, including issues discussed and any decisions made, will be published following each Advisory Council meeting.

Part 4 Responsibilities of the Minister and government entities

Clause 19 provides that the Minister must develop a multicultural policy within six months of the commencement of the legislation. It also outlines what the multicultural policy must deal with, including promoting the principles of the Charter, stating outcomes for government entities to work towards achieving that support people from diverse backgrounds, and providing for a consistent approach across government for collecting statistical information about the diversity of customers. The multicultural policy will also need to be publicly available.

While a review of the policy is not explicitly required by the Act, reporting on the multicultural policy outcomes (clause 21) will provide the evidence to review and update the policy as appropriate.

Clause 20 outlines that the Minister must also develop a multicultural action plan to implement the multicultural policy outcomes. It also states that the plan must be consistent with the principles in the Charter, include actions from government entities that will achieve the multicultural policy outcomes, and include actions that will ensure services provided by government entities are accessible to people who have difficulty communicating in English. Government entities should also refer to the Queensland Language Services Policy and Language Services Guidelines regarding how to improve accessibility of services for people with difficulty communicating in English.

The whole-of-government multicultural action plan will be developed in collaboration with all departments and some statutory bodies as appropriate. There is no requirement for government entities to have individual multicultural action plans.

The multicultural action plan must be publicly available and government entities will be publicly accountable for the actions they have committed to in the multicultural action plan through the reporting obligations outlined in clause 24.

Clause 21 provides that a report on the implementation of the multicultural policy must be tabled in the Legislative Assembly by the Minister as soon as practicable after the end of each

multicultural action plan (that is, every three years). The report must include information about how government has achieved the multicultural policy outcomes and actions within the multicultural action plans.

The timing of the reports provides adequate time for actions to be implemented so that improved outcomes can be effectively measured. More frequent reporting on policy outcomes may make it difficult to determine changes at the community level as a result of government intervention.

It is envisaged that the report on the multicultural policy may include a mix of qualitative and quantitative information.

Clause 22 establishes a responsibility for chief executives of government entities to ensure their employees are aware of the Charter and multicultural policy and action plan, and how to apply them to their work.

Chief executives may implement this requirement through, among other strategies, developing the cultural capability of employees.

Clause 23 places a responsibility on employees of government entities to ensure that they consider the Charter when developing policy or providing services.

Clause 24 outlines the reporting obligations for government entities that have committed to actions in the multicultural action plan. These government entities must provide an annual summary on the progress of implementing these actions. The entity must make the information publicly available, for example, by publishing it on the entity's website. This section only applies to government entities with actions in the multicultural action plan. Only those government entities with activities that will contribute to the outcomes in the multicultural policy will be included.

Part 5 Miscellaneous

Clause 25 provides that regulations can be made under the Act.

Schedule 1 The Multicultural Queensland Charter

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

The Multicultural Queensland Charter is for the whole community. The high level values and principles outlined in the Charter can be entrenched across all sectors including business and the community services sector and within local communities, from managing workforce diversity, to developing tailored responses to particularly vulnerable culturally and linguistically diverse customer groups, to holding events to welcome new arrivals and embrace diversity.

A multicultural society provides many opportunities for a diversified workforce and business ventures, as well as access to tourism and export markets.

Migration has a positive impact on labour participation and employment, on wages and incomes, on the national skills base and on net productivity. Migration also provides gains in living standards as government taxation revenues increase with the gains to employment. The Migration Council of Australia predicts that Australia's projected population will be 38 million by 2050 and migration will be contributing \$1,625 billion (\$1.6 trillion) to Australia's GDP¹.

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¹ Migration Council of Australia, *The Economic Impact of Migration*, <http://www.migrationcouncil.org.au/assets/files/2d690a3a5.pdf>