

Passed by both Houses



New South Wales

Multicultural NSW Legislation Amendment Bill 2014

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I certify that this public bill, which originated in the Legislative Assembly, has finally passed the Legislative Council and the Legislative Assembly of New South Wales.

*Clerk of the Legislative Assembly.
Legislative Assembly,
Sydney,*

, 2014



New South Wales

Multicultural NSW Legislation Amendment Bill 2014

Act No , 2014

An Act to amend the *Community Relations Commission and Principles of Multiculturalism Act 2000* to rename the Community Relations Commission as Multicultural NSW, to constitute the Advisory Board of Multicultural NSW and to make other changes with respect to the Commission and the multicultural principles; and for other purposes.

I have examined this bill and find it to correspond in all respects with the bill as finally passed by both Houses.

Assistant Speaker of the Legislative Assembly.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Multicultural NSW Legislation Amendment Act 2014*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

Schedule 1 Amendment of Community Relations Commission and Principles of Multiculturalism Act 2000 No 77

[1] Long title

Omit “principles of multiculturalism”. Insert instead “multicultural principles”.

[2] Long title

Omit “the Community Relations Commission of New South Wales”.

Insert instead “Multicultural NSW”.

[3] Preamble

Omit paragraphs (a) and (b). Insert instead:

- (a) promotes the equal rights and responsibilities of all the people of New South Wales within a cohesive and multicultural society in which:
 - (i) individuals share a commitment to New South Wales and to Australia, and
 - (ii) diversity is regarded as a strength and an asset, and
 - (iii) English is the common language, and
- (b) recognises and values the different linguistic, religious and ancestral backgrounds of the people of New South Wales.

[4] Section 1 Name of Act

Omit “*Community Relations Commission and Principles of Multiculturalism*”.

Insert instead “*Multicultural NSW*”.

[5] Section 3 Multicultural principles

Omit section 3 (1). Insert instead:

- (1) The ***multicultural principles*** are as follows:
 - (a) all individuals in New South Wales, irrespective of their linguistic, religious and ancestral backgrounds, should demonstrate a unified commitment to Australia, its interests and future,
 - (b) all individuals in New South Wales should recognise the importance of shared values governed by the rule of law within a democratic framework,
 - (c) the people of New South Wales are of different linguistic, religious and ancestral backgrounds who, either individually or in community with other members of their respective groups, are free to profess, practise and maintain their own linguistic, religious and ancestral heritage,
 - (d) all individuals and institutions should respect and make provision for the culture, language and religion of others within an Australian legal and institutional framework where English is the common language,
 - (e) all individuals in New South Wales should have the greatest possible opportunity to:
 - (i) contribute to, and participate in, all aspects of public life in which they may legally participate, and

- (ii) make use of, and participate in, relevant activities and programs provided or administered by the Government of New South Wales,
- (f) all institutions of New South Wales should recognise the linguistic and cultural assets in the population of New South Wales as a valuable resource and promote this resource to maximise the development of the State.

[6] Section 3 (2), (3) and (4)

Omit “principles of multiculturalism” wherever occurring.

Insert instead “multicultural principles”.

[7] Section 3 (2A)

Insert after section 3 (2):

- (2A) In this Act, a *commitment to Australia* includes a commitment to the common values and things that bind Australians together (such as a volunteering ethos, participation in Australian national days and events and recognition of the heritage of Australia’s Aboriginal and Torres Strait Islander people).

[8] Section 4 Definitions

Insert in alphabetical order:

Advisory Board means the Advisory Board of Multicultural NSW established under this Act.

Chief Executive Officer means the Chief Executive Officer of Multicultural NSW.

commitment to Australia—see section 3 (2A).

[9] Section 4, definitions of “Chairperson”, “Multicultural NSW” and “multicultural principles”

Omit the definitions of *Chairperson*, *Commission* and *principles of multiculturalism*.

Insert in alphabetical order:

Chairperson means the person appointed under this Act as the Chairperson of the Advisory Board.

Multicultural NSW means Multicultural NSW constituted by this Act.

multicultural principles—see section 3.

[10] Section 4, definition of “cultural diversity”

Omit “religious, racial and ethnic”. Insert instead “religious and ancestral”.

[11] Part 2, heading

Omit “Commission”. Insert instead “Multicultural NSW and Advisory Board”.

[12] Section 6 Constitution of Multicultural NSW

Omit “the Community Relations Commission of New South Wales” from section 6 (1).

Insert instead “Multicultural NSW”.

[13] Section 6 (2) and (3)

Omit “The Commission” wherever occurring. Insert instead “Multicultural NSW”.

[14] Section 6 (4)

Omit the subsection. Insert instead:

- (4) The functions of Multicultural NSW are exercisable by the Chief Executive Officer, and any act, matter or thing done in the name of, or on behalf of, Multicultural NSW by the Chief Executive Officer, or with the authority of the Chief Executive Officer, is taken to have been done by Multicultural NSW.

[15] Sections 7 and 8

Omit the sections. Insert instead:

7 Chief Executive Officer

The Chief Executive Officer of Multicultural NSW is the person employed in the Public Service as the Chief Executive Officer.

8 Constitution of Advisory Board

- (1) There is to be an Advisory Board of Multicultural NSW.
- (2) The Advisory Board is to consist of the Chief Executive Officer and not more than 15 part-time members appointed by the Governor, of whom:
 - (a) one is to be a person appointed as Chairperson of the Advisory Board by the member's instrument of appointment or a further instrument signed by the Governor, and
 - (b) 2 are to be persons who are not less than 18 years old and not more than 24 years old when appointed and who are appointed as representatives of youth from New South Wales.

Note. Schedule 1 sets out further provisions relating to the members of the Advisory Board and Schedule 2 contains provisions about the procedure of the Advisory Board.
- (3) In recommending the appointment of a person as a member of the Advisory Board, the Minister is to have regard to the desirability of having members who are of diverse backgrounds, of different occupational backgrounds and who ordinarily reside in different parts of the State.

[16] Section 10 Regional advisory councils

Omit "The Commission" from section 10 (1). Insert instead "Multicultural NSW".

[17] Section 10 (2) and (4)

Omit "the Commission" wherever occurring. Insert instead "Multicultural NSW".

[18] Section 10 (2)

Omit "the Commission's functions". Insert instead "the functions of Multicultural NSW".

[19] Section 10 (3)

Omit "commissioner of the Commission". Insert instead "member of the Advisory Board".

[20] Section 11

Omit the section. Insert instead:

11 Other committees

- (1) Multicultural NSW may establish standing committees to assist it in connection with the exercise of any of its functions or special committees to consider and report on particular issues.

- (2) The procedure for the calling of meetings of a committee established under this section and for the conduct of business at those meetings is to be determined by Multicultural NSW or (subject to any determination by Multicultural NSW) by the committee.

[21] Part 3, heading

Omit “**Commission**”. Insert instead “**Multicultural NSW and the Advisory Board**”.

[22] Sections 12–13A

Omit sections 12 and 13. Insert instead:

12 Objectives of Multicultural NSW

The objectives of Multicultural NSW are as follows:

- (a) to promote the equal rights and responsibilities of citizenship,
- (b) to promote the unity, and strong commitment to Australia, of all people in a cohesive and harmonious multicultural society,
- (c) to promote the participation of the people of New South Wales in community life and the public decision-making process so that they can exercise their rights and fulfil their obligations,
- (d) to promote access to government and community services that is equitable and that has regard to the linguistic, religious and ancestral diversity of the people of New South Wales,
- (e) to promote a cohesive and harmonious multicultural society with mutual respect for and understanding of cultural diversity, including by combating racism,
- (f) to promote the enrichment of all sections of society through the benefits of cultural diversity,
- (g) to promote the multicultural principles and the advantages of a multicultural society,
- (h) to promote social justice, community development and community initiatives for all the diverse communities in New South Wales.

13 Functions of Multicultural NSW

- (1) The functions of Multicultural NSW are as follows:

- (a) to undertake systematic and wide-ranging consultation with people and groups with respect to its objectives and to arrange and participate in forums to promote its objectives,
- (b) to advise and make recommendations to the Minister to promote any of its objectives,
- (c) to research or investigate and report to the Minister on any matter relating to its objectives that Multicultural NSW considers appropriate or that the Minister refers to Multicultural NSW for research or investigation and report,
- (d) to facilitate co-operative arrangements involving governmental, business, educational and community groups or bodies to promote its objectives,
- (e) to enter into agreements with public authorities in connection with their functions to promote the objectives of Multicultural NSW (including, but not limited to, the objective relating to access to government services),

- (f) to provide a single coordination point for integrated responses to issues associated with cultural diversity and to assist in resolving issues associated with cultural diversity,
 - (g) to assist and develop programs for, and assess the effectiveness of, public authorities in observing the multicultural principles in the conduct of their affairs, particularly in connection with the delivery of government services, so as to facilitate consistency across authorities on issues associated with cultural diversity,
Note. For example, under the Multicultural Policies and Services Program of Multicultural NSW, government agencies are required to implement a multicultural plan.
 - (h) to provide (whether within or outside New South Wales) interpreter, translation or other services approved by the Minister,
 - (i) to advise the Minister on the most effective use of funds appropriated by Parliament for programs related to its objectives (including funds for the provision of resources to community groups that promote the objectives of Multicultural NSW),
 - (j) to support community initiatives that promote the objectives of Multicultural NSW (including initiatives that support women and girls and other groups of diverse backgrounds) and to promote community engagement for the purposes of promoting those objectives,
 - (k) to encourage eligible people to become Australian citizens,
 - (l) to advise and make recommendations to the Anti-Discrimination Board on matters relating to discrimination and racial vilification and to refer matters relating to discrimination and racial vilification to the Anti-Discrimination Board,
 - (m) any other functions that are conferred or imposed on it by or under this or any other Act.
- (2) Persons may be employed in the Public Service under the *Government Sector Employment Act 2013* to enable Multicultural NSW to exercise its functions.
Note. Section 59 of the *Government Sector Employment Act 2013* provides that the persons so employed (or whose services Multicultural NSW makes use of) may be referred to as officers or employees, or members of staff, of Multicultural NSW. Section 47A of the *Constitution Act 1902* precludes Multicultural NSW from employing staff.

13A Functions of Advisory Board

The functions of the Advisory Board are as follows:

- (a) to advise Multicultural NSW or the Minister on any issue relating to the objectives or strategic directions of Multicultural NSW it considers appropriate or that is referred to it by Multicultural NSW or the Minister,
- (b) to review and provide advice to Multicultural NSW on the annual report by Multicultural NSW on the state of community relations in New South Wales.

[23] Section 14 Reporting on the state of community relations

Omit “The Commission is to prepare a report, for each calendar year” from section 14 (1).
Insert instead “Multicultural NSW is to prepare a report, for each financial year”.

[24] Section 14 (1)

Omit “principles of multiculturalism”. Insert instead “multicultural principles”.

[25] Section 14 (2)

Omit “the Commission”. Insert instead “Multicultural NSW”.

[26] Section 14 (3)

Omit the subsection. Insert instead:

- (3) A report in relation to a financial year of Multicultural NSW is to be furnished to the Minister before the end of February in the year following the year to which the report relates.

[27] Section 15 Public authorities to assist Multicultural NSW

Omit “the Commission” wherever occurring. Insert instead “Multicultural NSW”.

[28] Section 16

Omit the section. Insert instead:

16 Delegation of functions of Multicultural NSW

- (1) Multicultural NSW may delegate to an authorised person any of its functions, other than this power of delegation.
- (2) A delegate may sub-delegate to an authorised person any function delegated by Multicultural NSW if the delegate is authorised in writing to do so by Multicultural NSW.
- (3) In this section, *authorised person* means:
 - (a) a member of the staff of Multicultural NSW, or
 - (b) a person or a person of a class approved by the Minister or prescribed by the regulations.

[29] Section 18 Financial year

Omit “the Commission” wherever occurring in section 18 (1) and the note to the section. Insert instead “Multicultural NSW”.

[30] Section 19 Recovery of money by Multicultural NSW

Omit “the Commission” wherever occurring. Insert instead “Multicultural NSW”.

[31] Section 20 Service of documents on Multicultural NSW

Omit “the Commission” wherever occurring. Insert instead “Multicultural NSW”.

[32] Section 20 (1)

Omit “the Commission’s office”. Insert instead “the office of Multicultural NSW”.

[33] Section 21

Omit the section. Insert instead:

21 Personal liability

A matter or thing done or omitted to be done by:

- (a) Multicultural NSW, or
- (b) the Advisory Board or a member of the Advisory Board, or
- (c) the Chief Executive Officer, or

(d) a person acting under the direction of Multicultural NSW, the Advisory Board, a member of the Advisory Board or the Chief Executive Officer, does not, if the matter or thing was done or omitted to be done in good faith for the purposes of executing this Act, subject a member of the Advisory Board, the Chief Executive Officer or a person so acting personally to any action, liability, claim or demand.

[34] Section 22, heading

Omit “**principles of multiculturalism**”. Insert instead “**multicultural principles**”.

[35] Schedule 1, heading

Omit “**commissioners**”. Insert instead “**members of the Advisory Board**”.

[36] Schedule 1, source reference

Omit “(Section 7 (2))”.

[37] Schedule 1, clauses 1–5

Omit clauses 1-6. Insert instead:

1 Definition

In this Schedule:

member means a member of the Advisory Board.

2 Chairperson

- (1) The Chairperson vacates office as Chairperson if the Chairperson:
 - (a) is removed from office by the Governor under this clause, or
 - (b) ceases to be a member.
- (2) The Governor may at any time remove the Chairperson from office as Chairperson.

3 Deputies of members

- (1) The Minister may, from time to time, appoint a person to be the deputy of a member, and the Minister may revoke any such appointment.
- (2) In the absence of a member, the member’s deputy may, if available, act in the place of the member.
- (3) While acting in the place of a member, a person:
 - (a) has all the functions of the member and is taken to be a member, and
 - (b) is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the person.

4 Terms of office

- (1) Subject to this Schedule, a member holds office for the period (not exceeding 3 years) that is specified in the member’s instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.
- (2) A person is not eligible for re-appointment as a member if the person has been a member (whether or not for consecutive terms) for a total period of more than 9 years.

- (3) Any previous period of appointment as a commissioner of the Community Relations Commission under this Act is taken to be a period of appointment as a member for the purposes of subclause (2).

5 Members of Advisory Board may undertake full-time roles

- (1) The Minister may, at the request of Multicultural NSW, authorise a member to be engaged on a full-time or other basis on any particular work for Multicultural NSW or a committee of Multicultural NSW.
- (2) A member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of any such work (in addition to any other remuneration to which the member is entitled under this Schedule).
- (3) Any such member continues to be a member for the purposes of this Act.

[38] Schedule 1, clauses 7, 8, 10 and 11 (2)

Omit “part-time commissioner” wherever occurring. Insert instead “member”.

[39] Schedule 1, clauses 7, 8 and 9

Omit “the commissioner” wherever occurring. Insert instead “the member”.

[40] Schedule 1, clause 8 (1) (d)

Omit the paragraph. Insert instead:

- (d) is removed from office by the Governor under this clause, or

[41] Schedule 1, clause 8 (1) (e)

Omit “4 consecutive”. Insert instead “3 consecutive”.

[42] Schedule 1, clauses 8 (1) (e) and 9 (3), (4), (5) and (6)

Omit “Commission” wherever occurring. Insert instead “Advisory Board”.

[43] Schedule 1, clause 9 (1)

Omit the subclause. Insert instead:

- (1) If:
- (a) a member has a direct or indirect pecuniary interest in a matter being considered or about to be considered at a meeting of the Advisory Board, and
- (b) the interest appears to raise a conflict with the proper performance of the member’s duties in relation to the consideration of the matter,
- the member must, as soon as possible after the relevant facts have come to the member’s knowledge, disclose the nature of the interest at a meeting of the Advisory Board.

[44] Schedule 1, clause 9 (2)

Omit “a commissioner at a meeting of the Commission”.

Insert instead “a member at a meeting of the Advisory Board”.

[45] Schedule 1, clauses 9 (4) and (5) and 11 (2)

Omit “a commissioner” wherever occurring. Insert instead “a member”.

[46] Schedule 1, clause 11 (1)

Omit the subclause. Insert instead:

- (1) The provisions of the *Government Sector Employment Act 2013* relating to the employment of Public Service employees do not apply to a member.

[47] Schedule 2, heading

Omit “**Commission**”. Insert instead “**Advisory Board**”.

[48] Schedule 2, source reference

Omit “(Section 7 (3))”.

[49] Schedule 2, clause 1

Omit the definition of *commissioner*. Insert instead:

member means a member of the Advisory Board.

[50] Schedule 2, clauses 2, 3, 4 (3), 5, 6 (2)–(4), 7 and 8

Omit “Commission” wherever occurring. Insert instead “Advisory Board”.

[51] Schedule 2, clauses 3 and 6

Omit “commissioners” wherever occurring. Insert instead “members”.

[52] Schedule 2, clauses 3 and 6

Omit “commissioner” wherever occurring. Insert instead “member”.

[53] Schedule 2, clause 4 (1) and (2)

Omit the subclauses. Insert instead:

- (1) The Chairperson is to preside at a meeting of the Advisory Board.
- (2) In the absence of the Chairperson, another member elected to chair the meeting by the members present at the meeting is to preside at the meeting.

[54] Schedule 2, clause 6 (1)

Omit “Commission” where firstly occurring. Insert instead “Advisory Board”.

[55] Schedule 2, clause 6 (1)

Omit “decision of the Commission”.

Insert instead “decision of the Advisory Board at a meeting of the Advisory Board”.

[56] Schedule 4 Savings, transitional and other provisions

Insert at the end of clause 2 (1):

any other Act that amends this Act

[57] Schedule 4, Part 3

Insert after Part 2:

**Part 3 Provisions arising from enactment of the
Multicultural NSW Legislation Amendment Act 2014**

6 Community Relations Commission continued as Multicultural NSW

- (1) Multicultural NSW is a continuation of, and the same legal entity as, the Community Relations Commission.
- (2) A reference to the Community Relations Commission in any other Act, in any instrument made under any other Act or in any other document is to be read as a reference to Multicultural NSW.

7 Chairperson of Community Relations Commission

- (1) The person who held office as Chairperson of the Community Relations Commission immediately before the commencement of this clause is taken to have been appointed as the Chairperson of the Advisory Board for the balance of the person's term of office as Chairperson of the Community Relations Commission.
- (2) A reference to the Chairperson of the Community Relations Commission in any other Act, in any instrument made under any other Act or in any other document is to be read as a reference to the Chief Executive Officer of Multicultural NSW.

8 Commissioners of Community Relations Commission

- (1) A person who held office as a commissioner of the Community Relations Commission immediately before the commencement of this clause is taken to have been appointed under this Act as a member of the Advisory Board for the balance of the person's term of office as a commissioner of the Community Relations Commission.
- (2) Any such person who also held office as the Deputy Chairperson of the Community Relations Commission immediately before the commencement of this clause is also taken to have been appointed under this Act as the Deputy Chairperson of the Advisory Board for the balance of the person's term of office as the Deputy Chairperson of the Community Relations Commission.
- (3) A person taken to have been appointed as the Deputy Chairperson of the Advisory Board under this clause is, in the absence of the Chairperson, to preside at a meeting of the Advisory Board. In the absence of both the Chairperson and the Deputy Chairperson, clause 4 (2) of Schedule 2 applies.
- (4) A reference to a commissioner of the Community Relations Commission in any other Act, in any instrument made under any other Act or in any other document is to be read as a reference to a member of the Advisory Board.

9 Multicultural principles

A reference in any Act, in any instrument made under an Act or in any other document to the principles of multiculturalism (within the meaning of this Act immediately before the commencement of this clause) is to be read as a reference to the multicultural principles.

Schedule 2 Amendment of other Acts and instruments

2.1 Annual Reports (Departments) Regulation 2010

Schedule 1 Report of operations

Omit the matter relating to Agreements with the Community Relations Commission.

Insert instead:

Agreements with Multicultural NSW	A statement describing any agreement entered into between the Department and Multicultural NSW under the <i>Multicultural NSW Act 2000</i> and a statement setting out the Department's progress in implementing any such agreement.
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2.2 Annual Reports (Statutory Bodies) Regulation 2010

Schedule 1 Report of operations

Omit the matter relating to Agreements with the Community Relations Commission.

Insert instead:

Agreements with Multicultural NSW	A statement describing any agreement entered into between the statutory body and Multicultural NSW under the <i>Multicultural NSW Act 2000</i> and a statement setting out the statutory body's progress in implementing any such agreement.
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2.3 Anti-Discrimination Act 1977 No 48

Section 119 General functions of the Board

Omit "the Community Relations Commission" from section 119 (1) (a1).

Insert instead "Multicultural NSW".

2.4 Geographical Names Act 1966 No 13

Section 3 Geographical Names Board

Omit "the Chairperson of the Community Relations Commission" from section 3 (4) (e).

Insert instead "the Chief Executive Officer of Multicultural NSW".

2.5 Government Sector Employment Act 2013 No 40

Schedule 1 Public Service agencies

Omit the matter relating to Community Relations Commission Staff Agency from Part 2.

Insert instead:

Multicultural NSW Staff Agency	Chief Executive Officer of the Agency	Department of Education and Communities. The Minister administering the <i>Multicultural NSW Act 2000</i> is to exercise the employer functions of the Government in relation to the Chief Executive Officer.
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2.6 Health Practitioner Regulation (Adoption of National Law) Act 2009 No 86

Schedule 1 Modification of Health Practitioner Regulation National Law

Omit “the Community Relations Commission” from clause 3 (2) (d) of Schedule 5C (as inserted by Schedule 1 [25]).

Insert instead “Multicultural NSW”.

2.7 Health Practitioner Regulation (New South Wales) Regulation 2010

Schedule 1A Membership of relevant Councils

Omit “the Community Relations Commission” from clause 3 (2) (c).

Insert instead “Multicultural NSW”.

2.8 Health Records and Information Privacy Act 2002 No 71

Section 17A Exemption for certain translation services

Omit “the Community Relations Commission” and “the Commission” wherever occurring.

Insert instead “Multicultural NSW”.

2.9 Local Government Act 1993 No 30

[1] Section 8 The council’s charter

Omit “principles of multiculturalism” from section 8 (1).

Insert instead “multicultural principles”.

[2] Dictionary

Omit the definition of *principles of multiculturalism*.

Insert in alphabetical order:

multicultural principles means the principles set out in section 3 of the *Multicultural NSW Act 2000*.

2.10 Lord Howe Island Act 1953 No 39

Section 5 Board’s charter

Omit “principles of multiculturalism” from section 5 (1) (c).

Insert instead “multicultural principles”.

2.11 Privacy and Personal Information Protection Act 1998 No 133

Section 28 Other exemptions

Omit “the Community Relations Commission” and “the Commission” wherever occurring in section 28 (2).

Insert instead “Multicultural NSW”.

2.12 Public Finance and Audit Act 1983 No 152

Schedule 2 Statutory bodies

Omit “Community Relations Commission”.

Insert in alphabetical order “Multicultural NSW”.

2.13 Superannuation Act 1916 No 28

Schedule 26

Omit “Community Relations Commission” from Part 1.

Insert in appropriate order “Multicultural NSW”.

2.14 Workplace Injury Management and Workers Compensation Act 1998 No 86

Section 118 Registration of certain persons involving interpreting etc services

Omit “the Community Relations Commission” from section 118 (3) (b) (ii).

Insert instead “Multicultural NSW”.