

Community Relations Commission and Principles of Multiculturalism Act 2000 No 77

[2000-77]



New South Wales

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The provisions displayed in this version of the legislation have all commenced.

Notes—

- **Does not include amendments by**
[Statute Law \(Miscellaneous Provisions\) Act \(No 2\) 2010 No 119](#) (not commenced — to commence on 7.1.2011)

Authorisation

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Community Relations Commission and Principles of Multiculturalism Act 2000 No 77



New South Wales

An Act to establish principles of multiculturalism as the policy of the State; to constitute the Community Relations Commission of New South Wales; to provide for its objectives and functions; to repeal the *Ethnic Affairs Commission Act 1979* and to amend certain other Acts and regulations; and for other purposes.

Preamble

This Act:

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

The Legislature of New South Wales therefore enacts:

Part 1 Preliminary

1 Name of Act

This Act is the *Community Relations Commission and Principles of Multiculturalism Act 2000*.

2 Commencement

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

3 Principles of multiculturalism

(1) Multiculturalism is founded on the following principles (the ***principles of multiculturalism***):

- (a) the people of New South Wales are of different linguistic, religious, racial and

ethnic 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, racial and ethnic heritage,

- (b) all individuals in New South Wales, irrespective of their linguistic, religious, racial and ethnic backgrounds, should demonstrate a unified commitment to Australia, its interests and future and should recognise the importance of shared values governed by the rule of law within a democratic framework,
 - (c) all individuals in New South Wales should have the greatest possible opportunity to contribute to, and participate in, all aspects of public life in which they may legally participate,
 - (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 should have the greatest possible opportunity to make use of and participate in relevant activities and programmes 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.
- (2) Parliament recognises that the principles of multiculturalism are based on citizenship. The expression **citizenship** is not limited to formal Australian citizenship, but refers to the rights and responsibilities of all people in a multicultural society.
- (3) The principles of multiculturalism are the policy of the State.
- (4) Accordingly, each public authority must observe the principles of multiculturalism in conducting its affairs.
- (5) It is the duty of the chief executive officer of each public authority to implement the provisions of this section within the area of his or her administration.

4 Definitions

In this Act:

Chairperson means the Chairperson of the Commission, being a full-time or part-time Chairperson as referred to in section 8.

citizenship—see section 3 (2).

Commission means the Community Relations Commission of New South Wales constituted by this Act.

cultural diversity means the different linguistic, religious, racial and ethnic backgrounds of the people of New South Wales.

exercise a function includes perform a duty.

function includes a power, authority or duty.

principles of multiculturalism—see section 3.

public authority means any public or local authority constituted by or under an Act, and includes a Government department, a statutory State owned corporation, a local council, a body whose accounts are required to be audited by the Auditor General or any other body prescribed by the regulations.

5 Notes

Notes included in this Act do not form part of this Act.

Part 2 Constitution of Commission

6 Constitution of Commission

- (1) There is constituted by this Act a corporation with the corporate name of the Community Relations Commission of New South Wales.
- (2) The Commission is, for the purposes of any Act, a statutory body representing the Crown.
- (3) The Commission is subject to the control and direction of the Minister, except in relation to the contents of any advice, report or recommendation given to the Minister or any other person or body.
- (4) The Commission is to adopt the phrase “For a multicultural NSW” for use in conjunction with the name of the Commission.

7 Membership and procedure of Commission

- (1) The Commission is to consist of not more than 11 commissioners, being:
 - (a) a full-time Chairperson and part-time commissioners appointed by the Governor, or
 - (b) part-time commissioners appointed by the Governor.
- (1A) Of the part-time commissioners, 2 are to be persons who are appointed as representatives of youth from New South Wales and who are not less than 18 years of age and not more than 24 years of age at the time of their appointment.
- (2) Schedule 1 has effect with respect to the commissioners.

- (3) Schedule 2 has effect with respect to the procedure of the Commission.

8 Chairperson of Commission

- (1) The Chairperson of the Commission is the person holding office as such under Chapter 2 of the *Public Sector Employment and Management Act 2002* (referred to in this Act as a **full-time Chairperson**).
- (2) A full-time Chairperson is the chief executive officer of the Commission.
- (3) If there is no full-time Chairperson, a part-time commissioner may, by the instrument of his or her appointment or by a subsequent instrument executed by the Governor, be appointed as Chairperson of the Commission.

9 (Repealed)

10 Regional advisory councils

- (1) The Commission is to establish regional advisory councils for regional areas of the State.
- (2) The function of a regional advisory council is to advise the Commission on any matter relating to the Commission's functions that the council considers appropriate or that the Commission refers to the council for advice.
- (3) A regional advisory council is to comprise representatives of relevant local or regional agencies, community organisations or individuals and a commissioner of the Commission (who is to be the chairperson of the council). The composition of a regional advisory council is to reflect the diversity of the local community concerned.
- (4) The procedure for the calling of meetings of a regional advisory council and for the conduct of business at those meetings is to be as determined by the Commission or (subject to any determination of the Commission) by the council.

11 Other committees

- (1) The Commission 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) It does not matter that any or all of the members of a committee are not commissioners of the Commission.
- (3) The procedure for the calling of meetings of a committee and for the conduct of business at those meetings is to be as determined by the Commission or (subject to any determination of the Commission) by the committee.

Part 3 Objectives and functions of Commission

12 Objectives of Commission

The objectives of the Commission are as follows:

- (a) 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,
- (b) access to government and community services that is equitable and that has regard to the linguistic, religious, racial and ethnic diversity of the people of New South Wales,
- (c) the promotion of a cohesive and harmonious multicultural society with mutual respect for and understanding of cultural diversity,
- (d) the enrichment of all sections of society through the benefits of cultural diversity,
- (e) the promotion of the principles of multiculturalism and the advantages of a multicultural society,
- (f) the promotion of social justice, community development and community initiatives for ethnic communities in New South Wales.

13 Functions of Commission

(1) The functions of the Commission are as follows:

- (a) to undertake systematic and wide-ranging consultation with people and groups with respect to 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 the Commission considers appropriate or that the Minister refers to the Commission for research or investigation and report,
- (d) to arrange and participate in forums to promote its objectives,
- (e) to facilitate co-operative arrangements involving governmental, business, educational and community groups or bodies to promote its objectives,
- (f) to enter into agreements with public authorities in connection with their functions to promote the objectives of the Commission (including, but not limited to, the objective relating to access to government services),
- (f1) to provide a single coordination point for integrated responses to emerging issues

associated with cultural diversity,

- (g) to assist, and assess the effectiveness of, public authorities in observing the principles of multiculturalism 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,
- (h) to assist in resolving issues associated with cultural diversity,
- (i) to provide (whether within or outside New South Wales) interpreter or other services approved by the Minister,
- (j) 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 the Commission),
- (k) to support community initiatives that promote the objectives of the Commission,
- (l) to encourage eligible people to become Australian citizens,
- (m) to advise and make recommendations to the Anti-Discrimination Board on matters relating to discrimination and racial vilification,
- (m1) to refer matters relating to discrimination and racial vilification to the Anti-Discrimination Board,
- (n) such other functions as are conferred or imposed on it by or under this or any other Act.

(2) The Commission cannot employ any staff.

Note—

Staff may be employed under Chapter 1A of the [Public Sector Employment and Management Act 2002](#) in the Government Service to enable the Commission to exercise its functions.

14 Reporting on the state of community relations

- (1) The Commission is to prepare a report, for each calendar year, on the state of community relations in New South Wales as affected by cultural diversity, including an assessment of the effectiveness of public authorities in observing the principles of multiculturalism in the conduct of their affairs.
- (2) The report may include recommendations of the Commission in relation to any relevant matters.
- (3) The report is to be furnished to the Minister before the end of April in the year following the year to which the report relates.

- (4) The Minister is to lay, or cause to be laid, a copy of the report before each House of Parliament within 14 sitting days of the House after receiving the report.
- (5) If a House of Parliament is not sitting when the Minister seeks to have a copy of the report laid before the House, the Minister may present a copy of the report to the Clerk of that House.
- (6) The report, if presented to the Clerk:
 - (a) is, on presentation, and for all purposes, taken to have been laid before the House, and
 - (b) may be printed by the authority of the Clerk, and
 - (c) if printed by authority of the Clerk, is for all purposes taken to be a document published by or under the authority of the House, and
 - (d) is to be recorded in the Minutes, or Votes and Proceedings, of the House on the first sitting day of the House after presentation of the report to the Clerk.

15 Public authorities to assist Commission

- (1) This section applies to any investigation conducted by the Commission under this Act that affects the functions of a public authority.
- (2) The public authority is to give the Commission all such assistance and make available all such information with respect to any such function as the Commission may require for the purposes of that investigation.
- (3) Public authorities may, at the request of the Commission, provide officers of the public authority to be members or to advise members of committees of the Commission established to advise and report on any issue for the purposes of that investigation.

16 Delegation of functions

- (1) The Commission may delegate to the Chairperson any of the functions of the Commission (other than this power of delegation).
- (2) The Chairperson may sub-delegate to an officer of the Commission any function delegated by the Commission if the Chairperson is authorised in writing to do so by the Commission.

Part 4 Miscellaneous

17 Act to bind Crown

This Act binds the Crown in right of New South Wales and, in so far as the legislative power of the Parliament of New South Wales permits, the Crown in all its other capacities.

18 Financial year

- (1) The financial year of the Commission is the year commencing on 1 July.
- (2) A different financial year may be determined by the Treasurer under section 4 (1A) of the *Public Finance and Audit Act 1983*.

Note—

The *Public Finance and Audit Act 1983* makes provision for the keeping and audit of the accounts of the Commission and the *Annual Reports (Statutory Bodies) Act 1984* makes provision for the preparation and tabling in Parliament of the annual report of the Commission.

19 Recovery of money by Commission

Any charge, fee or money due to the Commission, or to the Crown in respect of any of the activities of the Commission, may be recovered by the Commission as a debt, if no express provision is otherwise made for its recovery.

20 Service of documents on Commission

- (1) A document may be served on the Commission by leaving it at, or by sending it by post addressed to, the Commission's office or, if it has more than one office, any of its offices.
- (2) Nothing in this section affects the operation of any provision of a law or of the rules of a court authorising a document to be served on the Commission in any other manner.

21 Personal liability

A matter or thing done by the Commission, by a commissioner of the Commission or by a person acting under the direction of the Commission or a commissioner does not, if the matter or thing was done in good faith for the purposes of executing this or any other Act, subject a commissioner or a person so acting personally to any action, liability, claim or demand.

22 Legal consequences of principles of multiculturalism

Nothing in section 3 gives rise to, or can be taken into account in, any civil cause of action.

23 Regulations

The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

24 (Repealed)

25 Repeals

- (1) The *Ethnic Affairs Commission Act 1979* is repealed.
- (2) The *Ethnic Affairs Commission Regulation 1997* is repealed.

26 Savings, transitional and other provisions

Schedule 4 has effect.

27 Review of Act

- (1) The Minister is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.
- (2) The review is to be undertaken as soon as possible after the period of 5 years from the date of assent to this Act.
- (3) A report on the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 5 years.

Schedule 1 Provisions relating to commissioners

(Section 7 (2))

1 Definitions

In this Schedule:

commissioner means any commissioner of the Commission, including the Chairperson.

part-time commissioner means a commissioner other than a full-time Chairperson.

2 Chairperson

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

Note—

The *Public Sector Employment and Management Act 2002* makes provision for the removal of a full-time Chairperson from office.

- (3) During any absence of a full-time Chairperson, a person appointed to act in the office of Chairperson under Chapter 2 of the *Public Sector Employment and Management Act*

2002 may attend any meeting of the Commission, but:

- (a) is not entitled to preside at the meeting, and
- (b) is not entitled to vote at the meeting.

Note—

The office of full-time Chairperson is a public service executive position created under Chapter 2 of the *Public Sector Employment and Management Act 2002*. That Act enables the appointment of any other public service officer to act in the position in the absence of the Chairperson or a vacancy in the office of the Chairperson.

- (4) For the purposes of this clause, a vacancy in the office of Chairperson is taken to be an absence of a full-time Chairperson.

3 Deputy Chairperson

- (1) A part-time commissioner may, by the instrument of his or her appointment or by a subsequent instrument executed by the Governor, be appointed as Deputy Chairperson of the Commission.
- (2) The Deputy Chairperson vacates office as Deputy Chairperson if the person:
 - (a) is removed from office by the Governor under this clause, or
 - (b) ceases to be a commissioner.
- (3) The Governor may at any time remove the Deputy Chairperson from office as Deputy Chairperson.

4 Deputies of part-time commissioners

- (1) The Minister may, from time to time, appoint a person to be the deputy of a part-time commissioner, and the Minister may revoke any such appointment.
- (2) In the absence of a part-time commissioner, the commissioner's deputy:
 - (a) may, if available, act in the place of the absent commissioner, and
 - (b) while so acting, has all the functions of the commissioner (other than any functions the commissioner has as Chairperson, acting Chairperson or Deputy Chairperson) and is taken to be a part-time commissioner.
- (3) A person while acting in the place of a part-time commissioner 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) For the purposes of this clause, a vacancy in the office of a part-time commissioner is taken to be an absence of the commissioner.

5 Part-time commissioners undertaking full-time duties

- (1) The Minister may, at the request of the Commission, authorise a part-time commissioner to be engaged on a full-time or other basis on any particular work for the Commission or a committee of the Commission.
- (2) A part-time commissioner 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 part-time commissioner is entitled under this Schedule).
- (3) Any such commissioner continues to be a part-time commissioner for the purposes of this Act.

6 Terms of office of part-time commissioners

Subject to this Schedule, a part-time commissioner holds office for such period (not exceeding 5 years) as is specified in the commissioner's instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.

7 Remuneration

A part-time commissioner 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 commissioner.

8 Vacancy in office of part-time commissioner

- (1) The office of a part-time commissioner becomes vacant if the commissioner:
 - (a) dies, or
 - (b) completes a term of office and is not re-appointed, or
 - (c) resigns the office by instrument in writing addressed to the Minister, or
 - (d) is removed from office by the Governor under this clause or under Chapter 5 of the *Public Sector Employment and Management Act 2002*, or
 - (e) is absent from 4 consecutive meetings of the Commission of which reasonable notice has been given to the commissioner personally or in the ordinary course of post, except on leave granted by the Commission or unless, before the expiration of 4 weeks after the last of those meetings, the commissioner is excused by the Commission for having been absent from those meetings, or
 - (f) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or

- (g) becomes a mentally incapacitated person, or
- (h) is convicted in New South Wales of an offence that is punishable by penal servitude or imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable.

(2) The Governor may at any time remove a part-time commissioner from office.

9 Disclosure of pecuniary interests

(1) If:

- (a) a commissioner has a direct or indirect pecuniary interest in a matter being considered or about to be considered at a meeting of the Commission, and
- (b) the interest appears to raise a conflict with the proper performance of the commissioner's duties in relation to the consideration of the matter,

the commissioner must, as soon as possible after the relevant facts have come to the commissioner's knowledge, disclose the nature of the interest at a meeting of the Commission.

(2) A disclosure by a commissioner at a meeting of the Commission that the commissioner:

- (a) is a member, or is in the employment, of a specified company or other body, or
- (b) is a partner, or is in the employment, of a specified person, or
- (c) has some other specified interest relating to a specified company or other body or to a specified person,

is a sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person which may arise after the date of the disclosure and which is required to be disclosed under this clause.

(3) The Commission must cause particulars of any disclosure made under this clause to be recorded in a book kept for the purpose and that book must be open at all reasonable hours to inspection by any person on payment of such fee as may be determined by the Commission from time to time.

(4) After a commissioner has disclosed the nature of an interest in any matter, the commissioner must not, unless the Minister or the Commission otherwise determines:

- (a) be present during any deliberation of the Commission with respect to the matter,
or
- (b) take part in any decision of the Commission with respect to the matter.

- (5) For the purposes of the making of a determination by the Commission under subclause (4), a commissioner who has a direct or indirect pecuniary interest in a matter to which the disclosure relates must not:
- (a) be present during any deliberation of the Commission for the purpose of making the determination, or
 - (b) take part in the making by the Commission of the determination.
- (6) A contravention of this clause does not invalidate any decision of the Commission.

10 Filling of vacancy in office of part-time commissioner

If the office of a part-time commissioner becomes vacant, a person is, subject to this Act, to be appointed to fill the vacancy.

11 Effect of certain other Acts

- (1) Chapter 2 of the *Public Sector Employment and Management Act 2002* does not apply to or in respect of the appointment of a part-time commissioner.
- (2) If by or under any Act provision is made:
- (a) requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office, or
 - (b) prohibiting the person from engaging in employment outside the duties of that office,

the provision does not operate to disqualify the person from holding that office and also the office of a part-time commissioner or from accepting and retaining any remuneration payable to the person under this Act as such a commissioner.

Schedule 2 Provisions relating to procedure of Commission

(Section 7 (3))

1 Definition

In this Schedule:

commissioner means any commissioner of the Commission, including the Chairperson.

2 General procedure

The procedure for the calling of meetings of the Commission and for the conduct of business at those meetings is, subject to this Act and the regulations, to be as determined by the Commission.

3 Quorum

The quorum for a meeting of the Commission is a majority of commissioners for the time being.

4 Presiding member

(1) The Chairperson or, in the absence of the Chairperson, the Deputy Chairperson is to preside at a meeting of the Commission.

Note—

The reference to the Chairperson does not include an acting Chairperson—see clause 2 of Schedule 1.

(2) In the absence of both the Chairperson and the Deputy Chairperson, another commissioner elected to chair the meeting by the commissioners present at the meeting is to preside at the meeting.

(3) The person presiding at any meeting of the Commission has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

5 Voting

A decision supported by a majority of the votes cast at a meeting of the Commission at which a quorum is present is the decision of the Commission.

6 Transaction of business outside meetings or by telephone

(1) The Commission may, if it thinks fit, transact any of its business by the circulation of papers among all the commissioners for the time being, and a resolution in writing approved in writing by a majority of those commissioners is taken to be a decision of the Commission.

(2) The Commission may, if it thinks fit, transact any of its business at a meeting at which the commissioners (or some of them) participate by telephone, closed-circuit television or other means, but only if any commissioner who speaks on a matter before the meeting can be heard by the other commissioners.

(3) For the purposes of:

(a) the approval of a resolution under subclause (1), or

(b) a meeting held in accordance with subclause (2),

the Chairperson and each commissioner have the same voting rights as they have at an ordinary meeting of the Commission.

(4) A resolution approved under subclause (1) is, subject to the regulations, to be recorded in the minutes of the Commission.

(5) Papers may be circulated among the commissioners for the purposes of subclause (1)

by facsimile or other transmission of the information in the papers concerned.

7 Attendance by non-members

- (1) A person authorised by the Commission or the Chairperson may attend a meeting of the Commission, and may participate in the meeting to the extent that the Commission determines.
- (2) A person attending a meeting of the Commission under this clause cannot cast a vote at the meeting.

8 First meeting

The Minister is to call the first meeting of the Commission in such manner as the Minister thinks fit.

Schedule 3 (Repealed)

Schedule 4 Savings, transitional and other provisions

(Section 26)

Part 1 Preliminary

1 Definition

In this Schedule:

former Act means the *Ethnic Affairs Commission Act 1979*.

2 Savings and transitional regulations

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:

 this Act

Community Relations Commission and Principles of Multiculturalism Amendment Act 2003

- (2) Any such provision may, if the regulations so provide, take effect on the date of assent to the Act concerned or a later date.
- (3) To the extent to which any such provision takes effect on a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:
 - (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person before the date of its publication, or

- (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

Part 2 Provisions arising from enactment of this Act

3 Abolition of Ethnic Affairs Commission

- (1) The Ethnic Affairs Commission constituted under the former Act is abolished.
- (2) The Community Relations Commission is a continuation of, and the same legal entity as, the Ethnic Affairs Commission.
- (3) A reference to the Ethnic Affairs Commission in any other Act, in any instrument made under any other Act or in any document is to be read as a reference to the Community Relations Commission.

4 Chairperson of Ethnic Affairs Commission

The person who held office as Chairperson of the Ethnic Affairs Commission immediately before its abolition by this Act is taken to have been appointed under Part 2 of the [Public Sector Management Act 1988](#) as the full-time Chairperson of the Community Relations Commission for the balance of the person's term of office as Chairperson of the Ethnic Affairs Commission.

5 Commissioners (other than Chairperson) of Ethnic Affairs Commission

- (1) A person who held office as a commissioner of the Ethnic Affairs Commission (other than the Chairperson) immediately before its abolition by this Act is taken to have been appointed under this Act as a part-time commissioner of the Community Relations Commission for the balance of the person's term of office as a commissioner of the Ethnic Affairs Commission.
- (2) Any such person who also held office as the Deputy Chairperson of the Ethnic Affairs Commission immediately before its abolition by this Act is taken to have been appointed under this Act as the Deputy Chairperson of the Community Relations Commission.
- (3) This clause has effect even though the number of persons taken to be appointed as commissioners of the Community Relations Commission exceeds the maximum number of commissioners permitted by this Act.