

## Second Reading

**The Hon. JOHN HATZISTERGOS** (Attorney General, Minister for Citizenship, Minister for Regulatory Reform, and Vice-President of the Executive Council) [5.10 p.m.]: I move:

That this bill be now read a second time.

The Community Relations Commission and Principles of Multiculturalism Amendment Bill 2010 amends the Community Relations Commission and Principles of Multiculturalism Act 2000, which was introduced by the Carr Labor Government. The bill strengthens the principles of multiculturalism as the policy of the State while better facilitating the work of the Community Relations Commission in securing the policy objectives of the Act. The bill ensures the functions of the commission include proactive research to identify potential issues relating to community harmony, and better facilitates the leadership role of the commission as a coordination point for whole-of-government responses to emerging issues relating to cultural diversity.

The bill implements the recommendations made by Ms Irene Moss, AO. That review was made in accordance with section 27 of the Act. The aim of the Moss review was to determine, firstly, whether the policy objectives of the Act remain valid and, secondly, whether the terms of the Act remain valid for securing those objectives. The Moss review found that some terms of the Act relating to the principles of multiculturalism would benefit from amendment in order to better articulate the ideals they seek to encapsulate. The review also found that some of the practical provisions of the Act should be modified in order to better facilitate the work of the commission. The Government accepted all the recommendations of the review, and the aim of this bill is to implement those recommendations.

I will now outline the key provisions of the bill. The bill, having regard to the recommendations of the review, amends section 3 of the Act relating to the principles of multiculturalism in order to better express the Act's objectives. In addition, the bill strengthens existing powers and introduces new provisions into the Act in order to better reflect the inclusive spirit of the Government's broader policy objectives relating to community relations. The bill clarifies the commission's objectives as they relate to the promotion of social justice and community development, and facilitates a number of its functions required by the Act. There was a general consensus in submissions to the review that the broad policy objectives of the Act are still relevant.

The submissions endorsed the Act's key objectives, as currently articulated by the four principles of multiculturalism: a cohesive and harmonious society based on mutual respect and a shared commitment to Australia, opportunities for all individuals in society to contribute to and participate in civil society and the public decision-making process, equitable access to government services and programs, and maximisation of the cultural and economic benefits that diversity brings to the State. However, the issue of shared values was addressed by a number of submissions. Some submissions proposed that the principles of multiculturalism should be maintained as currently articulated in the Act while the value of a shared commitment to Australia, its laws and institutions should be located earlier in the relevant section of the Act.

Recognising this, the bill strengthens the principles of multiculturalism in section 3 of the Act by elevating references to the "importance of shared values within a democratic framework" and a "unifying commitment to Australia" to the first part of this section. These reforms are not about watering down our commitment to cultural diversity or imposing new requirements on people merely by virtue of the fact that they come from culturally and linguistically diverse backgrounds. Instead, they articulate that the strongest guarantee of diversity and harmony is a clear commitment to the democracy and rule of law on which our great nation is based.

The review also found that certain provisions in section 12 of the Act no longer adequately equip the commission to secure its objective. Accordingly, the bill makes the following changes to section 12. Section 12 (d) of the Act currently sets as an objective of the commission the "enrichment of all sections of society through the benefits of cultural diversity". While this goal remains valid, the wording of this section does not convey a sufficiently practical objective capable of performance by the commission. That is why the bill re-expresses section 12 (d) of the Act, linking the general goal of social enrichment with the commission's practical task of promoting the principles of multiculturalism. That amendment necessitates omission of section 12 (e), within which the promotion of the principles of multiculturalism currently sits. The bill also amends section 12 (f) to better reflect the inclusive spirit of the Act and the Government's broader policy objectives relating to community relations.

Turning to the next section of the Act, the review recommended that section 13 of the Act should include a provision that clearly articulates, as a function of the commission, the undertaking of proactive strategies relating to community harmony. The bill therefore amends section 13 (1) (c) of the Act, explicitly adding to the existing functions of the commission the function of proactive research to identify potential issues relating to community harmony. The Moss review also highlighted the need for greater coordination of government agency responses to emerging issues relating to social cohesion and community harmony. Accordingly, the review recommended

amendments that would better recognise and facilitate the commission's leadership and coordination role in these matters. The bill amends sections 13 (1) (f) and (1) (g) of the Act to give the commission the clear function of acting as a single coordination point, ensuring consistent cross-agency work in this area.

Section 13 (1) (i) of the Act establishes as one of the commission's functions the provision of interpreter services. During the review, one submission raised the concern that the continuing provision of translation and interpreter services is currently rendered more difficult by provisions relating to the collection and disclosure of personal and health information under the Privacy and Personal Information Protection Act 1998 and the Health Records and Information Privacy Act 2002. In particular, concerns related to the potential for inadvertent collection, notification, disclosure and trans-border data flow of personal or health information collected by commission staff in the course of providing translation and interpreter services. Often this information relates to the person who requests the translation or interpreter service or a third party on whose behalf a customer requests the commission provide such a service.

The commission's employees are obviously not necessarily aware of the content of documents, and the potential for them to contain personal or health information, before those documents are translated. Accordingly, it is impractical to submit these services to the requirements of the Privacy and Personal Information Protection Act and the Health Records and Information Privacy Act. That is why the review recommended that the public interest in maintaining the principles of multiculturalism as these relate to linguistic diversity, and thus in facilitating the legislated functions of the commission, outweighs the public interest in requiring the commission to fully comply with the respective provisions under the privacy and health records Acts.

The Moss review noted that a public interest direction from the Privacy Commissioner exempting the commission from the relevant provisions of the two Acts could offer a temporary solution to the issue. However, as the review suggested, it is more satisfactory to permanently deal with this difficulty by way of legislative amendment. The bill therefore amends section 28 of the Privacy and Personal Information Protection Act 1998 to exempt complying translation services of the commission from the Act, subject to strict requirements against the disclosure of private information other than where necessary in the course of providing these services. The bill makes a matching amendment to section 17A of the Health Records and Information Privacy Act 2002.

In the course of its business the commission often encounters issues relating to people's experiences of ethno-religious discrimination. These matters are specifically addressed in New South Wales legislation by the Anti-Discrimination Act 1977. Given the responsibilities of the Community Relations Commission to promote and safeguard the principles of multiculturalism, however, the commission is clearly an interested party in instances of ethno-religious discrimination. The relationship between the commission and the Anti-Discrimination Board is recognised in statute.

The review noted that, while section 13 (1) (m) of the Community Relations Commission and Principles of Multiculturalism Act establishes an advisory function for the commission in relation to the Anti-Discrimination Board, the Act does not explicitly provide for the commission to make formal references to the board, nor is there a specific onus on the board to investigate those references. Accordingly, this bill amends the current provision under section 13 (1) (m) of the Act to formalise the commission's function in making references to the Anti-Discrimination Board. The bill similarly amends section 119 of the Anti-Discrimination Act to reflect this relationship between the commission and the board.

Every year, the Community Relations Commission produces a report on the state of community relations in New South Wales and an assessment of the effectiveness of public authorities in observing the principles of multiculturalism in the conduct of their affairs. Honourable members will remember that the 2009 report was recently tabled in Parliament, and it gave a compelling snapshot of the myriad activities supported by the commission over the year. Section 14 (3) of the Act requires that reports be provided to the Minister for Citizenship by the end of March every year. This deadline was considered as part of the Moss review, with the review considering that the current timeframe may not be entirely workable. The review also observed that similar legislation in other Australian States offers considerably more flexibility regarding the timing of the report to the Minister. As a result, the review recommended that section 14 (3) of the Act be amended to provide the more practical deadline of the end of April every year.

I move now to the arrangements for the appointment of persons to act in place of the chairperson of the commission. As part of a range of amendments to give effect to new government departmental arrangements in November 2009, clause 2 (3) of schedule 1 to the Act was amended to provide that, in the absence of the chairperson of the commission, an acting chairperson would already be appointed from a government agency. This appointment is without reference to the Minister or the Executive Council, to preside over meetings of the Commission. The acting chairperson, while not a commissioner, could also chair commission meetings and vote at those meetings. This situation is not an optimal method of governing the commission in the absence of the chairperson.

The November 2009 amendment also conflicts with section 8 of the Act, which outlines contingency arrangements for a part-time commissioner to be appointed as chairperson in the absence of the full-time chairperson. This current arrangement has no time limit and by default can be an indefinite or permanent

arrangement compromising the inherent capacity of the commission to proffer independent advice. Accordingly, the bill amends the schedule to the Act to restore the previous position that enabled the appointment of a public servant to act in the office of chairperson but without being a member of the commission or having a right to vote or preside at meetings.

Finally, the bill seeks to address a conflict related to the commission's reporting status. The commission has been classified as a department under schedule 3 to the Public Finance and Audit Act 1983; however, it is also classified as a statutory body under section 6 (2) of its own Act. The commission's Act needs to refer to the Annual Reports (Statutory Bodies) Act, with the commission reclassified in the Public Finance and Audit Act 1983 to come under the requirements of statutory authorities not a department. The bill addresses this inconsistency in the Act by amending section 18(2) accordingly.

Ours is a great State because of the commitment shown by people of diverse cultural backgrounds to our public life, our economy and our social fabric. The New South Wales Government is proud of that social cohesion and is committed to the ongoing support of our rich cultural diversity. The work of the Community Relations Commission is fundamental to those objectives, and the Community Relations Commission and Principles of Multiculturalism Amendment Bill 2010 will greatly assist the chairperson and the commissioners in their crucial work. I commend the bill to the House.