

South Australia

# South Australian Multicultural and Ethnic Affairs Commission Act 1980

An Act to establish the South Australian Multicultural and Ethnic Affairs Commission; to prescribe its powers and functions; and for purposes incidental thereto.

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### The Parliament of South Australia enacts as follows:

## Part 1—Preliminary

### 1—Short title

This Act may be cited as the *South Australian Multicultural and Ethnic Affairs Commission Act 1980*.

### 4—Interpretation

In this Act, unless the contrary intention appears—

*the Commission* means the South Australian Multicultural and Ethnic Affairs Commission established under Part 2;

*ethnic affairs* means any matter relating to the language, traditions and culture of an ethnic group;

*ethnic group* means any group of persons within the South Australian community who share a common language, traditions or culture;

*government department* means—

- (a) an administrative unit of the Public Service of the State; or
- (b) a prescribed instrumentality of the Crown;

*multiculturalism* means policies and practices that recognise and respond to the ethnic diversity of the South Australian community and have as their primary objects the creation of conditions under which all groups and members of the community may—

- (a) live and work together harmoniously; and
- (b) fully and effectively participate in, and employ their skills and talents for the benefit of, the economic, social and cultural life of the community; and
- (c) maintain and give expression to their distinctive cultural heritages;

*public authority* means—

- (a) an administrative unit of the Public Service of the State; or
- (b) an instrumentality of the Crown; or
- (c) a council or other local authority.

## Part 2—The South Australian Multicultural and Ethnic Affairs Commission

### Division 1—Establishment of the Commission

#### 5—Establishment of Commission

- (1) The *South Australian Multicultural and Ethnic Affairs Commission* is established.

- (2) The Commission—
  - (a) is a body corporate with perpetual succession and a common seal; and
  - (b) is capable of suing and being sued; and
  - (c) is, for the purpose of carrying out its functions, capable of—
    - (i) holding, acquiring, dealing with and disposing of real and personal property;
    - (ii) acquiring or incurring any other rights or liabilities; and
  - (d) holds its property on behalf of the Crown.
- (3) Where an apparently genuine document purports to bear the common seal of the Commission, it is to be presumed in any legal proceedings, in the absence of proof to the contrary, that the common seal of the Commission has been duly affixed to that document.

## **6—Constitution of Commission**

- (1) The Commission is to consist of not more than 15 members appointed by the Governor on the nomination of the Minister, of whom—
  - (a) one must be appointed to chair the Commission; and
  - (b) at least four must be men and four women.
- (2) A person occupying the position of chief executive officer of a Public Service administrative unit established to assist the Commission may not be appointed to be a member of the Commission.
- (3) In selecting nominees for appointment to the Commission the Minister should act with a view to ensuring that the membership of the Commission reflects an appropriate diversity of ethnic and occupational backgrounds and should have regard to—
  - (a) the knowledge; and
  - (b) the sensitivity; and
  - (c) the enthusiasm and personal commitment; and
  - (d) the experience and involvement with ethnic groups,of those who come under consideration.
- (4) The member appointed to chair the Commission must be appointed for a term of office not exceeding five years and on such conditions as are specified in his or her instrument of appointment.
- (5) Each other member of the Commission must be appointed for a term of office not exceeding three years and on such conditions as are specified in his or her instrument of appointment.
- (6) Subject to any condition of appointment to the contrary, a member is, on the expiration of his or her term of office, eligible for reappointment to the Commission.
- (7) The Governor may—
  - (a) appoint a suitable person (who may be, but is not required to be, a member of the Commission) to be the deputy of the member appointed to chair the Commission; and

- (b) appoint a suitable person to be the deputy of any other member of the Commission.
- (8) The deputy of a member of the Commission may act in the place of the member and exercise the powers and functions of the member—
  - (a) during any absence of the member; or
  - (b) during any period for which the member is acting in the place of another member; or
  - (c) if the member ceases to be a member of the Commission—until a person is appointed to the vacant office.

### **7—Remuneration of members**

A member of the Commission is entitled to such salary (if any) and such allowances and expenses as the Governor may from time to time determine.

### **8—Removal from and vacancies of office**

- (1) The Governor may remove a member of the Commission from office on the ground of—
  - (a) a breach of, or non-compliance with, a condition of his or her appointment; or
  - (b) mental or physical incapacity; or
  - (c) dishonourable conduct; or
  - (d) neglect of duty.
- (2) A member of the Commission is guilty of neglect of duty if he or she has, without leave of the Commission, been absent from four consecutive meetings of the Commission.
- (3) The office of a member of the Commission becomes vacant if—
  - (a) the member dies; or
  - (b) the member's term of office expires; or
  - (c) the member resigns by notice in writing given to the Commission; or
  - (d) the member is removed from office by the Governor pursuant to subsection (1).
- (4) On the office of a member of the Commission becoming vacant, a person must be appointed to that office in accordance with this Act.
- (5) If the office of a member of the Commission becomes vacant before the expiration of the term of office for which the member was appointed, the person appointed in the member's place may be appointed for any period not exceeding the balance of that term.

### **9—Meetings of Commission etc**

- (1) The member appointed to chair the Commission must chair all meetings of the Commission at which he or she is present.

- (2) If the member appointed to chair the Commission is absent from a meeting of the Commission, the meeting must be chaired—
  - (a) in a case where the deputy of that member is a member of the Commission and present at the meeting—by the deputy of that member; or
  - (b) in any other case—by a member chosen by the members present at the meeting.
- (3) Each member present at a meeting of the Commission is entitled to one vote on any question arising for decision at that meeting.
- (4) The person presiding at a meeting of the Commission has, in the event of an equality of votes, a second or casting vote.
- (4a) A decision carried by a majority of the votes cast by the members present at a meeting of the Commission is a decision of the Commission.
- (5) A number of members equal to one more than half (disregarding any fraction) of the number of members for the time being appointed to the Commission constitutes a quorum at a meeting of the Commission, and no business may be transacted at a meeting unless a quorum is present.
- (6) The Commission must keep accurate minutes of proceedings at its meetings and, within 14 days of the holding of a meeting, must furnish the Minister with a copy of the minutes of that meeting.
- (7) Subject to this Act, the Commission may conduct its business in such manner as it thinks fit.

## **10—Validity of acts of Commission and immunity of members**

- (1) An act or decision of the Commission is not invalid by reason only of any vacancy in the office of a member of the Commission or on the ground of any defect in the appointment of any member of the Commission.
- (2) No liability attaches to a member of the Commission for any act or omission by the member, or by the Commission, in good faith and in the exercise of powers or functions or in the discharge of duties under this Act.
- (3) Any liability that would, but for subsection (2), attach to a member of the Commission attaches to the Crown.

## **Division 2—Functions and powers of the Commission**

### **11—Commission to be subject to control of Minister**

In the exercise of its powers and functions, the Commission is subject to the general control and direction of the Minister.

### **12—Functions of Commission**

- (1) The primary functions of the Commission are—
  - (a) to increase awareness and understanding of the ethnic diversity of the South Australian community and the implications of that diversity; and
  - (b) to advise the Government and public authorities on, and assist them in, all matters relating to the advancement of multiculturalism and ethnic affairs.

- (2) The Commission's functions include the following:
- (a) to assist in the development of strategies designed to ensure that multicultural and language policies are incorporated as an integral part of wider social and economic development policies; and
  - (b) to work with public authorities to ensure that there is a co-ordinated approach to the advancement of multiculturalism and ethnic affairs; and
  - (c) to keep under review and advise the Government and public authorities on the extent to which services and facilities are available to and meet the needs of minority ethnic groups; and
  - (d) to assist public authorities to devise effective methods for the evaluation and reporting of policies and programmes for the advancement of multiculturalism and ethnic affairs; and
  - (e) to develop in conjunction with other public authorities immigration and settlement strategies designed to support and complement the State's economic development plans and to realise the potential and meet the needs of individual immigrants; and
  - (f) to advise, assist and promote co-operation between ethnic groups and organisations concerned in ethnic affairs; and
  - (g) to inform and consult with ethnic groups and other interested groups and organisations about the work of the Commission and issues relating to multiculturalism and ethnic affairs; and
  - (h) to provide or assist in the provision of interpreting, translation, information and other services and facilities for the benefit of ethnic groups and others; and
  - (i) to publicise generally the work of the Commission.
- (3) The Commission should, in carrying out its functions, act wherever possible with a view to encouraging participation by local government bodies and voluntary organisations.

#### **14—Delegation**

- (1) The Commission may, by instrument in writing, delegate any of its powers or functions to—
- (a) a committee appointed by the Commission; or
  - (b) a member of the Commission; or
  - (c) a Public Service employee or a person employed by the Commission to assist the Commission.
- (2) A delegation under this section is revocable at will and does not derogate from the power of the Commission to act in any matter.

#### **15—Advisory committees**

- (1) The Commission may with the approval of the Minister, appoint such advisory committees as it thinks fit to assist in the performance of its functions.

- (2) A committee appointed under this section must investigate and report to the Commission on any matter referred to it by the Commission for investigation and report.
- (3) The Commission should ensure as far as practicable that the various ethnic groups in the community are fairly represented on the advisory committees appointed under this section.

### **Division 3—Staff of the Commission**

#### **16—Staff to assist Commission**

- (1) The Commission may, for the purpose of carrying out its functions—
  - (a) make use of the services of Public Service employees assigned to assist the Commission; and
  - (b) with the approval of the Minister, employ persons on terms and conditions from time to time approved by the Minister on the recommendation of the Commissioner for Public Employment.
- (2) An appointment may not be made to the position of chief executive officer of an administrative unit of the Public Service established to assist the Commission unless the Minister has first consulted with the Commission in relation to the proposed appointment.

#### **17—Voluntary workers**

- (1) The Commission may, on such conditions as it thinks fit, make use of the gratuitous services of voluntary workers interested in the field of ethnic affairs.
- (2) The Commission may, with the approval of the Minister, pay to any such voluntary worker such allowances on account of expenses as the Commission thinks fit.
- (3) The Commission may provide such training for voluntary workers as it thinks fit.

### **Division 4—Financial provisions**

#### **18—Moneys required for the purposes of this Act**

The moneys required for the purposes of this Act may be paid out of moneys provided by Parliament for those purposes.

#### **19—Funds of the Commission**

- (1) All moneys received by the Commission must be paid into an ADI account established under this section.
- (2) The Commission may establish such ADI accounts as it thinks fit.
- (3) An ADI account established under this section must be operated by cheque signed and countersigned by such persons as the Commission may appoint for that purpose.

#### **20—Budget**

- (1) The Commission must, before the commencement of each financial year, present to the Minister a budget showing estimates of its receipts and payments for that financial year.

- (2) The Minister may approve a budget presented pursuant to subsection (1) with or without amendment.
- (3) The Commission must not, without the consent of the Minister, make any expenditure that is not authorised by a budget as approved by the Minister under this section.

## **21—Accounts**

- (1) The Commission must cause proper accounts to be kept of its financial affairs.
- (2) The Auditor-General may at any time and must at least once in each financial year audit the accounts of the Commission.

## **Part 3—Miscellaneous**

### **22—Obligations of public authorities**

- (1) Each government department must formulate a policy governing the provision of services by that department to the various ethnic groups in the community and the members of those groups.
- (2) A policy formulated under subsection (1) should be reviewed from time to time in the light of changing circumstances.
- (3) A public authority must provide the Commission with such assistance as it reasonably requires for the performance of its functions and, in particular, must at the request of the Commission provide it with information requested by the Commission within a period stipulated in the request.

### **23—Annual report**

- (1) The Commission must, on or before 30 September in each year, present a report to the Minister on the operations of the Commission during the preceding financial year.
- (2) A report under this section must incorporate the audited statement of accounts of the Commission for the financial year to which the report relates.
- (3) The Minister must, within 12 sitting days after receipt of a report under this section, cause copies of the report to be laid before both Houses of Parliament.

### **24—Regulations**

The Governor may make such regulations as are necessary or expedient for the purposes of this Act.

## Legislative history

### Notes

- Amendments of this version that are uncommenced are not incorporated into the text.
- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of this Act (historical versions) are listed at the end of the legislative history.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or [www.legislation.sa.gov.au](http://www.legislation.sa.gov.au).

### Formerly

*South Australian Ethnic Affairs Commission Act 1980*

### Principal Act and amendments

New entries appear in bold.

Year	No	Title	Assent	Commencement
1980	70	<i>South Australian Ethnic Affairs Commission Act 1980</i>	13.11.1980	14.5.1981 ( <i>Gazette 14.5.1981 p1405</i> )
1982	42	<i>South Australian Ethnic Affairs Commission Act Amendment Act 1982</i>	22.4.1982	22.4.1982
1983	117	<i>South Australian Ethnic Affairs Commission Act Amendment Act 1983</i>	22.12.1983	22.12.1983
1985	59	<i>Statutes Amendment (Remuneration) Act 1985</i>	30.5.1985	13.6.1985 ( <i>Gazette 13.6.1985 p2132</i> )
1989	69	<i>South Australian Ethnic Affairs Commission Act Amendment Act 1989</i>	29.10.1989	2.11.1989 ( <i>Gazette 2.11.1989 p1348</i> )
1995	94	<i>South Australian Multicultural and Ethnic Affairs Commission (Constitution of Commission) Amendment Act 1995</i>	7.12.1995	7.12.1997 (s 7(5) <i>Acts Interpretation Act 1915</i> )
1999	33	<i>Financial Sector Reform (South Australia) Act 1999</i>	17.6.1999	Sch (item 52)—1.7.1999 being the date specified under s 3(16) of the <i>Financial Sector Reform (Amendments and Transitional Provisions) Act (No. 1) 1999</i> of the Commonwealth as the transfer date for the purposes of that Act: s 2(2)
2009	84	<i>Statutes Amendment (Public Sector Consequential Amendments) Act 2009</i>	10.12.2009	Pt 141 (ss 323 & 324)—1.2.2010 ( <i>Gazette 28.1.2010 p320</i> )

## Provisions amended

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
Long title	amended by 69/1989 s 3	2.11.1989
Pt 1		
s 1	amended by 69/1989 s 4	2.11.1989
<i>ss 2 and 3</i>	<i>deleted by 69/1989 Sch</i>	<i>2.11.1989</i>
s 4		
the Commission	substituted by 69/1989 s 5(a)	2.11.1989
government department	inserted by 117/1983 s 2	22.12.1983
multiculturalism	amended by 69/1989 Sch	2.11.1989
public authority	inserted by 69/1989 s 5(b)	2.11.1989
	inserted by 117/1983 s 2	22.12.1983
	amended by 69/1989 Sch	2.11.1989
Pt 2	heading amended by 69/1989 s 6	2.11.1989
Pt 2 Div 1		
s 5		
s 5(1)	substituted by 69/1989 s 7	2.11.1989
s 5(2) and (3)	amended by 69/1989 Sch	2.11.1989
s 6	substituted by 117/1983 s 3	22.12.1983
s 6(1)	substituted by 69/1989 s 8(a)	2.11.1989
	amended by 94/1995 s 3(a)	7.12.1997
	(c) deleted by 94/1995 s 3(a)	7.12.1997
s 6(2)	deleted by 69/1989 s 8(a)	2.11.1989
	inserted by 94/1995 s 3(b)	7.12.1997
s 6(4)—(8)	substituted by 69/1989 s 8(b)	2.11.1989
<i>s 6(9)</i>	<i>deleted by 69/1989 s 8(b)</i>	<i>2.11.1989</i>
s 7	substituted by 117/1983 s 3	22.12.1983
	amended by 59/1985 s 19	13.6.1985
	substituted by 69/1989 s 9	2.11.1989
s 8		
s 8(1)—(4)	amended by 69/1989 Sch	2.11.1989
s 8(5)	amended by 69/1989 Sch	2.11.1989
	substituted by 94/1995 s 4	7.12.1997
s 9		
s 9(1) and (2)	substituted by 69/1989 s 10(a)	2.11.1989
s 9(3) and (4)	substituted by 117/1983 s 4	22.12.1983
	amended by 69/1989 Sch	2.11.1989
s 9(4a)	inserted by 117/1983 s 4	22.12.1983
	amended by 69/1989 Sch	2.11.1989

s 9(5)	substituted by 69/1989 s 10(b)	2.11.1989
s 9(6)	amended by 69/1989 Sch	2.11.1989
s 10	amended by 69/1989 Sch	2.11.1989
Pt 2 Div 2	heading substituted by 69/1989 s 11	2.11.1989
s 11	amended by 69/1989 Sch	2.11.1989
s 12	amended by 117/1983 s 5	22.12.1983
	substituted by 69/1989 s 12	2.11.1989
s 13	<i>amended by 42/1982 s 2</i>	22.4.1982
	<i>amended by 117/1983 s 6</i>	22.12.1983
	<i>deleted by 69/1989 s 12</i>	2.11.1989
s 14		
s 14(1)	amended by 69/1989 s 13	2.11.1989
s 15		
s 15(2)	amended by 69/1989 Sch	2.11.1989
s 15(3)	inserted by 117/1983 s 7	22.12.1983
Pt 2 Div 3		
s 16	substituted by 69/1989 s 14	2.11.1989
s 17		
s 17(1)	amended by 69/1989 Sch	2.11.1989
Pt 2 Div 4		
s 18	amended by 69/1989 Sch	2.11.1989
s 19		
s 19(1)	amended by 69/1989 Sch	2.11.1989
	amended by 33/1999 Sch (item 52(a))	1.7.1999
s 19(2)	amended by 33/1999 Sch (item 52(b))	1.7.1999
s 19(3)	amended by 69/1989 Sch	2.11.1989
	amended by 33/1999 Sch (item 52(c))	1.7.1999
s 20		
s 20(1)	substituted by 69/1989 Sch	2.11.1989
s 20(2) and (3)	amended by 69/1989 Sch	2.11.1989
s 21	substituted by 69/1989 Sch	2.11.1989
Pt 3		
s 22	substituted by 117/1983 s 8	22.12.1983
s 22(1) and (3)	amended by 69/1989 Sch	2.11.1989
s 23	substituted by 69/1989 Sch	2.11.1989

## Transitional etc provisions associated with Act or amendments

### *South Australian Ethnic Affairs Commission Act Amendment Act 1989*

#### 15—Transitional provisions

- (1) The South Australian Multicultural and Ethnic Affairs Commission is the same body corporate as the Commission established under the principal Act and in existence immediately before the commencement of this Act.

- (2) The members of the Commission in office immediately before the commencement of this Act continue in office under the principal Act as amended by this Act.

## **Historical versions**

Reprint No 1—7.12.1997