



Queensland

# First Nations Cultural Safety Youth Act 2025

## Youth Act No. 1 of 2025

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**A Youth Bill for a Youth Act to establish a Cultural Safety Commission to promote culturally safe, inclusive and respectful environments for Aboriginal persons and peoples and Torres Strait Islander persons and peoples, to make cultural safety a human right, to impose on all persons a duty of cultural safety, and to amend the Human Rights Act 2019, the Constitution of Queensland 2001 and the Youth Justice Act 1992 for related purposes**

**[Assented to 23 October 2025]**





Queensland

# First Nations Cultural Safety Youth Act 2025

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**The Youth Parliament of Queensland enacts—**

## **Part 1 Preliminary**

### **1 Short title**

This Youth Act may be cited as the *First Nations Cultural Safety Youth Act 2025*.

### **2 Commencement**

This Youth Act commences on a day to be fixed by proclamation.

### **3 Main purposes of Youth Act**

(1) The main purposes of this Youth Act are—

- (a) to foster culturally safe environments for First Nations persons and peoples across Queensland; and
- (b) to embed cultural safety as a core principle upheld and adhered to by all entities, including individuals and public and private sector entities; and
- (c) to protect First Nations persons and peoples from cultural harm, racism, lateral violence, tokenism, and systemic exclusion; and
- (d) to recognise and affirm Aboriginal and Torres Strait Islander knowledge systems, cultural identity, and sovereignty as an essential part of culturally safe, inclusive and respectful environments.

(2) The main purposes will be achieved primarily by—

- (a) imposing general obligations relating to cultural safety on all entities in or operating in Queensland; and

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- (b) imposing particular obligations relating to cultural safety on employers, educational institutions, healthcare providers, criminal justice agencies and courts, including in relation to cultural safety training, anti-racism education, trauma-informed practices and community involvement; and
- (c) establishing a Cultural Safety Commission to monitor and assure compliance with this Youth Act; and
- (d) establishing culturally appropriate complaints, reporting, and redress avenues that are independent, accessible and trauma-informed; and
- (e) imposing penalties for contraventions of this Youth Act and incentives for best practice, ensuring accountability and meaningful reform.

#### **4 Act binds all persons**

- (1) This Youth Act binds all persons, including the State and, as far as the legislative power of the Parliament permits, the Commonwealth and the other States.
- (2) Nothing in this Youth Act makes the State liable to be prosecuted for an offence.

#### **5 Definitions**

In this Youth Act—

*able to* see section 7.

**Commission** means the Cultural Safety Commission established under section 10.

**Commissioner** means the Cultural Safety Commissioner.

**community recognised delegates** means a person who is recognised by the First Nations people as a representative of them and their interests.

**culturally safe** see section 9.

**culturally safe action plan** means a written plan which—



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- (a) outlines the actions an entity will take to comply with its cultural safety obligations, including the policies, processes, practices, structures or systems it will adopt to prevent, identify and respond to the absence of cultural safety or something being not culturally safe; and
  - (b) without limiting paragraph (a), provides for—
    - (i) internal reporting and complaint handling policies, processes, practices, structures or systems; and
    - (ii) ongoing compliance evaluation, reporting and improvement processes, practices and systems; and
  - (c) includes timelines, responsibilities, and accountability mechanisms for the plan's implementation.

***cultural safety*** see section 8.

***Cultural Safety Register*** or ***Register*** means the register kept under section 30B.

***cultural safety training*** means structured, trauma-informed, and culturally led education or instruction designed to build the knowledge, reflection and accountability required to support culturally safe environments for First Nations persons and people.

***culture*** see section 6.

***culture-related harm*** see section 6.

***duty of cultural safety*** means the duty an entity has under section 11.

***First Nations liaison officer*** means a person who supports cultural safety and reconciliation by facilitating communication, understanding and engagement between First Nations peoples and an organisation.

***First Nations people*** means an Aboriginal people or community or a Torres Strait Islander people or community.

***First Nations person*** means an Aboriginal person or a Torres Strait Islander person.

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*free from risk* see section 7.

*harm* see section 6.

*high-risk occupation* means an occupation—

- (a) in any of the following sectors—
  - (i) health care and medical practice;
  - (ii) education and childcare;
  - (iii) law enforcement and security;
  - (iv) the public sector; or
- (b) stated in a standard or guideline made by the Commissioner and published on the Commission's website.

*public-disclosure order* see section 30C.

*public section*, of the Register, see section 30E.

*reconciliation plan* see section 29(2)(b)(ii).

*restorative justice program* means a culturally guided and community-led process designed to promote healing, accountability, and reconciliation.

*restricted section* see section 30E.

## **6 What is *harm*, *culture* and *culture-related harm***

- (1) *Harm* includes—
  - (a) spiritual, social, emotional or physical harm; and
  - (b) discrimination, exclusion, harassment, threat or retaliation.
- (2) *Culture*, for a person or people, includes the person's or people's identity, values and beliefs.
- (3) *Culture-related harm* is harm that—
  - (a) is inflicted on, or otherwise occurs in connection with, a person or people having a particular culture or expressing or practising their culture; or

- (b) occurs as a result of a failure to understand, recognise, acknowledge, respect, value or make appropriate and reasonable allowances or modifications for a person's or people's culture.

## **7 What is being *able to* and *free from risk***

- (1) A person or people is *able to* do something if—
  - (a) they may do the thing fully, freely and without restraint or limitation, so far as is reasonably practicable; or
  - (b) if it is not reasonably practicable to allow, permit or otherwise cause the doing of the thing, they may do the thing to the greatest extent as is reasonably practicable.
- (2) A person or people is *free from risk* if—
  - (a) the risk to the person or people has been eliminated, so far as is reasonably practicable; or
  - (b) if it is not reasonably practicable to eliminate the risk, the risk has been minimised so far as is reasonably practicable.

## **8 What is *cultural safety***

- (1) A person or people have *cultural safety* when they are—
  - (a) able to express and practice their culture; and
  - (b) free from risk of culture-related harm.
- (2) Having *cultural safety* includes the following—
  - (a) being able to express their cultural identity and community affiliation openly;
  - (b) being able to practice their language, art, ceremony, and spiritual traditions free from risk of culture-related harm;
  - (c) being able to participate in and receive employment, education, healthcare and the criminal justice and

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punishment freely and without limitation or restriction and free from risk of culture-related harm;

- (d) being able to receive services and treatment in a manner which understands, acknowledges, recognises, respects, values and makes allowances or modifications to avoid contravention of or interference with cultural protocols;
- (e) having their culture understood, recognised, acknowledged, respected and valued by others;
- (f) being able to raise their concerns and seek redress when they do not have cultural safety.

## 9 When is something *culturally safe*

- (1) Something, including conduct or an environment, entity, object, culture, relationship, policy, process, practice, structure or system, is *culturally safe*, for a person or people, if being in it, interacting with it, being subject to it, the acts or omissions attributable to it or the existence of it do not result in the person and people not having cultural safety.
- (2) In this section—  
*omission*, attributable to a thing, includes a failure to do something the thing is not obligated to do.

# Part 2 Cultural Safety Commission

## 10 Cultural Safety Commission and Commissioner

- (1) The Cultural Safety Commission is established as an independent statutory body.
- (2) The Commission is to carry out its functions independently, impartially and in the public interest.
- (3) The Commission consists of—
  - (a) the Cultural Safety Commissioner; and

- (b) the staff appointed by the Commissioner that the it considers appropriate to perform its functions.

## **11 Functions of the Commission**

The functions of the Commission are the following—

- (a) promote and uphold First Nations persons' and peoples' right to cultural safety across Queensland;
- (b) receive, investigate, and respond to report of failures to comply with this Youth Act;
- (c) provide education, training, and public awareness campaigns about cultural safety;
- (d) monitor compliance with reformatory actions issued in response to contraventions of an entity's duty of cultural safety;
- (e) issue guidelines, directives and codes of practice relating to cultural safety;
- (f) support community-led reconciliation and restorative justice processes;
- (g) make recommendations to government and regulatory bodies on improving the cultural safety of conduct, environments, entities, objects, cultures, relationships, policies, processes, practices, structures or systems;
- (h) ensure entities comply any recommendations issued by the Cultural Safety Commissioner;
- (i) report annually to the Minister on the state of cultural safety in Queensland; and
- (j) formally recognise the people in state who make the biggest impact on providing or assisting in providing cultural safety;
- (k) to establish, maintain and administer the Register, including its public section and restricted section, and to manage disclosure in accordance with part 5, division 4;

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- (l) to establish and maintain a list of approved cultural safety training and approved providers and to make and regulatory review standards or guidelines for cultural safety training;
- (m) to report at least every two months to the Board of Elders on the state of cultural safety, the Commissioner's activities, and the operation of the Cultural Safety Register.

## **12 Powers of the Commission**

The Cultural Safety Commissioner has the power to do all things necessary or convenient to be done for or in connection with the performance of the Commission's functions, including the power to—

- (a) require the provision of documents, records, testimonies or information relevant to a complaint or inquiry;
- (b) enter premises without notice or warrant;
- (c) enter, amend or remove information in the Register and give copies or extracts of that information in accordance with part 5, division 4.

## **13 Appointment of the Cultural Safety Commissioner**

- (1) The Cultural Safety Commissioner is to be appointed by the Governor in Council on the recommendation of the Minister.
- (2) The appointment must be made following a merit-based selection process.
- (3) The Commissioner holds office for a term not exceeding 5 years and the Commissioner may be reappointed.
- (4) A person is eligible for appointment only if they are a First Nations person and have—
  - (a) significant knowledge of cultural safety principles and practices;

- (b) experience in advocacy, human rights, law, public administration, or related fields;
  - (c) a good understanding of First Nations perspectives and community needs;
  - (d) demonstrated strong advocacy for First Nations persons or peoples within the community.
- (5) The terms and conditions of appointment, including remuneration, are to be set by regulation.

## **14 Annual report**

The Commissioner must publish an annual report about compliance with this Youth Act which includes the following—

- (a) a summary of compliance monitoring and assurance activities undertaken by the Commission; and
- (b) findings relating to contraventions of the duty of cultural safety, including patterns and trends; and
- (c) recommendations for policy, legislative or systemic reform; and
- (ca) information about the usage of anonymised statistics drawn from the Register, distinguishing between public section entries and restricted section entries, and noting any public disclosure orders made or revoked during the reporting year; and
- (d) any other information the Commissioner considers relevant to the state of cultural safety in Queensland.

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## **Part 2A                      Advisory Board of Elders**

### **Division 1                      Establishment, functions and powers**

#### **14A      Establishment**

The Advisory Board of Elders (the *board*) is established.

#### **14B      Functions**

- (1) The functions of the board are to—
  - (a) advise the Commissioner on policies, programs and strategies to improve cultural safety; and
  - (b) oversee and monitor the operation of the Commission, including the Register; and
  - (c) promote consultation and engagement with First Nations persons and peoples; and
  - (d) review and provide recommendations in relation to draft annual and strategic reports prepared by the Commissioner; and
  - (e) advise the Commissioner on the list of approved cultural safety training and approved providers and cultural safety training standards or guidelines.

#### **14C      Powers**

- (1) The board has all the powers to do anything necessary or convenient to be done in the performance of its functions.
- (2) Anything done in the name of, or for, the Commission by the board, or with the authority of the board, is taken to have been done by the Commission.



## **Division 2                      Composition**

### **14D      Composition**

- (1) The board consists of twelve First Nations persons (each a *board member*), each elected to serve a four-year term.
- (2) However, a person may not serve more than two consecutive terms as a board member.

### **14E      Appointment**

Unless otherwise provided for in this Youth Act, board members are appointed by the Youth Governor in Council.

## **Division 3                      Committees**

### **14F      Establishment of committees**

The board may establish committees, including regional committees, to assist in the performance of its functions.

## **Division 4                      Reporting**

### **14G      Commissioner's reports to board**

- (1) The Commissioner must give, at least every 2 months, a report to the board which includes information about—
  - (a) the state of cultural safety in Queensland; and
  - (b) the Commissioner's activities since the last report; and
  - (c) the operation of the Register.

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## **14H Annual report**

- (1) The board must prepare and give to the Minister, within 3 months after the end of the financial year, an annual report which includes details about—
  - (a) the state of cultural safety in Queensland; and
  - (b) the outcomes of consultation and engagement with the community, including First Nations persons and peoples; and
  - (c) any legislative and policy improvements and reforms recommended by the board.
- (2) The Minister must publish a copy of the report on the department's website as soon as practicable after receiving it.

## **Division 5 Elections**

### **14I Regulation to provide for elections**

- (1) A regulation must provide for the process of electing the board members, including by prescribing—
  - (a) who is eligible to vote in an election;
  - (b) how and when voting occurs;
  - (c) the appointment or election of a replacement board member following a casual vacancy.
- (2) However, the regulation must not be inconsistent with the following—
  - (a) only First Nations persons may vote in an election;
  - (b) a person may not be compelled, obligated or otherwise required by law vote in an election;
  - (c) the election must be conducted by the Electoral Commission of Queensland;
  - (d) generally, six board members are to be elected every two years;

- (e) where a position becomes vacant at least 3 months before an election at which the position may be filled.

## **Part 3 Right to Cultural Safety**

### **15 Right to cultural safety**

Every First Nations person and people in Queensland have the right to have cultural safety in all aspects of their life.

## **Part 4 Duty of cultural safety**

### **Division 1 Duty of cultural safety**

#### **16 Duty of cultural safety**

- (1) An entity must take all reasonable steps to ensure that it is culturally safe for First Nations persons and peoples, including by taking all reasonable steps to ensure that—
  - (a) its conduct is culturally safe for First Nations persons and peoples; and
  - (b) the environments and objects it owns or otherwise controls are culturally safe for First Nations persons and peoples.
- (2) To remove any doubt, it is declared that—
  - (a) this section applies to individuals, corporations, including body politics, and unincorporated bodies; and
  - (b) this section applies to entities in each of their capacities.

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## **Division 2                      Minimum content of duty of cultural safety for particular entities**

### **17            Corporations, unincorporated bodies and individuals conducting a business or undertaking**

A corporation or unincorporated body, or an individual conducting a business or undertaking, does not comply with their duty of cultural safety unless it takes all reasonable steps to ensure that—

- (a) it and its staff adopt cultures, relationships, policies, processes, practices, structures and systems that—
  - (i) are culturally safe for First Nations persons and peoples; and
  - (ii) promote cultural safety for First Nations persons and peoples; and
- (b) it and its staff respond to complaints or concerns of culture-related harm in a manner that is culturally safe for First Nations persons and peoples, including, for example, by responding in a timely manner.

### **18            Employers and senior officers**

An employer or senior officer of an employer does not comply with section 11 unless it takes all reasonable steps to ensure that—

- (a) the employer develops and implements the workplace cultural safety action plans that are appropriate in the circumstances; and
- (b) the employer conducts quarterly workplace audits of the employer's cultural safety for First Nations persons and peoples; and
- (c) the employer's staff are sufficiently competent to ensure that it and they are culturally safe for First Nations persons and peoples in its workplaces, including, for

example, by providing cultural safety training to its staff that—

- (i) is current; and
  - (ii) is relevant to the roles and duties performed by the staff and the contexts and environments the staff perform their roles and duties in; and
  - (iii) teaches the staff at least about conflict resolution, respectful interactions, inclusive practices and discrimination prevention; and
- (d) staff are provided with, aware of and feel confident to use avenues to report the absence of cultural safety for First Nations persons and peoples or something not being culturally safe for First Nations persons and peoples.

## 19 Educational institutions

- (1) A relevant entity for an educational institution does not comply with section 11 unless it takes all reasonable steps to ensure that—
- (a) the educational institution adopts and implements cultural safety training modules which all students complete at or around their enrolment and then subsequently at the beginning of each academic year; and
  - (b) the educational institution has an appropriately sized and resourced team (a ***cultural safety team***) that—
    - (i) has the function of and responsibility for—
      - (A) fostering an environment that is culturally safe environment for First Nation persons and people; and
      - (B) responding to responding to complaints or concerns of an absence of cultural safety for First Nations persons and peoples or

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- something not being culturally safe for First Nations persons and peoples; and
  - (C) guides students and staff through reconciliation processes; and
  - (D) providing, or facilitating access to, counsellors and other support persons who have completed accredited cultural safety training relevant to their roles; and
  - (ii) complies with any requirements published by or directions given by the Commissioner; and
  - (iii) includes at least one First Nations liaison officer; and
  - (c) the educational institution's disciplinary policies, processes, practices, structures and systems, whether formal or informal, are culturally safe for First Nations persons and peoples including, for example, by undertaking cultural safety impact assessments.
- (2) In this section—

***education institution*** means a State-school, a non-State school, a registered training organisation or a university.

***relevant entity*** means—

- (a) for a State-school—the department, the chief executive, a senior executive or a senior officer administering the Education (General Provisions) or the State school's principal; or
- (b) for a non-State school—the non-State school's governing body or principal; or
- (c) for a registered training organisation—the registered training organisation, its owner or a senior officer of it; or
- (d) for a university—the university, its senate or its chancellor, deputy chancellor, vice chancellor or president.

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**20 Health, child-care, aged care and disability support facilities**

- (1) A relevant entity for a relevant facility does not comply with section 11 unless it takes all reasonable steps to—
- (a) contribute, to the extent and in a manner that is appropriate in the circumstances, the achievement of the outcomes of the National Agreement on Closing the Gap (2020), including Outcomes 1, 2 and 14, and any successor agreement; and
  - (b) comply with, and give practical effect to, to the extent and in a manner that is appropriate in the circumstances, any relevant national, State and local strategy, policy, agreement or standard aimed at improving the provision of health, aged care, disability or child care services to First Nations persons and peoples, including—
    - (i) the National Aboriginal and Torres Strait Islander Health Plan 2021–2031; and
    - (ii) the National Aboriginal and Torres Strait Islander Early Childhood Strategy; and
  - (c) ensure, to the extent and in a manner that is appropriate in the circumstances, the prescription, dispensing and supply of medicines and therapeutic goods to First Nations persons and peoples is conducted in a manner that is free from discrimination, bias or racism; and
  - (d) establish and maintain an appropriately sized and resourced team (a *cultural safety team*) that—
    - (i) has the function of and responsibility for assisting First Nations persons to access the services provided at the relevant facility; and
    - (ii) complies with any requirements published by or directions given by the Commissioner; and
    - (iii) includes at least one First Nations liaison officer.
- (2) In this section—

*relevant facility* means—

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- (a) a public sector health service facility; or
- (b) a private health facility; or
- (c) a clinic or other place where 1 or more medical practitioners practise; or
- (d) a place where residential care within the meaning of the *Aged Care Act 1997* (Cwlth) is provided; or
- (e) an education and care service premises within the meaning of the *Education and Care Services National Law (Queensland)*; or
- (f) a place where disability service provider within the meaning of the *Disability Services Act 2006* provides disability services within the meaning of the *Disability Services Act 2006*, other than person with disabilities' dwelling or a public place.

**relevant entity** means—

- (a) for a public sector health service facility—the hospital and health service for the public sector health service facility or its board, a member of its board, its health service chief executive, a health executive in it or a senior health service employee in it; or
- (b) for a private health facility—the authority holder for the private health facility or a senior officer of it; or
- (c) for a clinic or other place where one or more medical practitioners practice—the entity that controls the clinic or place or a member of that entity; or
- (d) for a place where residential care is provided—the approved provider within the meaning of the *Aged Care Act 1997* (Cwlth) providing the residential care, the governing body within the meaning of the of the *Aged Care Act 1997* (Cwlth) of the approved provider, or a governing person within the meaning of the of the *Aged Care Act 1997* (Cwlth) of the approved provider; or
- (e) for an education and care service premises—the approved provider within the meaning of the *Education and Care Services National Law (Queensland)* for it or a



person with management or control within the meaning of the *Education and Care Services National Law (Queensland)* of the approved provider; or

- (f) for a place where disability service provider provides disability services—the disability service provider, a member of its board, management committee or other governing body or, if it is a corporation, an executive officer of it.

## **21 Custodial, judicial, and law enforcement**

- (1) A relevant entity for a criminal justice entity does not comply with section 11 unless it takes all reasonable steps to ensure that—
  - (a) each year, the number of deaths each year of First Nations persons in the criminal justice entity’s custody or caused in the course of or as a result of its operations during the year lowers; and
  - (b) the criminal justice entity consults and involves, to the extent and in a manner that is appropriate in the circumstances, elders or community recognised delegates in any design or review of its environments, policies, processes, practices, structures and systems, including, for example, its facilities for detaining children; and
  - (c) First Nations persons in custody are supported to maintain strong family, community and cultural connections through, to the extent and in a manner that is appropriate in the circumstance through—
    - (i) regular family visits; and
    - (ii) culturally significant activities, such as visiting country, participation in cultural ceremonies or healing programs; and
  - (d) policies, processes and practices allow First Nations persons to participate in sorry business and other cultural mourning practices; and

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- (e) establish and maintain an appropriately sized and resourced team (a ***cultural safety team***) that—
    - (i) has the function of and responsibility for assisting First Nations persons at and interacting with the criminal justice entity; and
    - (ii) complies with any requirements published by or directions given by the Commissioner; and
    - (iii) includes at least one First Nations liaison officer, First Nations elder or other appropriate person; and
  - (f) all employees, including contractors and volunteers, complete approved cultural safety training from an approved provider at least every two years.
- (2) In this section—

***criminal justice entity*** means the police service, the Crime and Corruption Commission, another law enforcement body, the department in which the *Corrective Services Act 2006* is administered or a court.

***relevant entity*** means—

- (a) for the police service—the commissioner or an executive officer of the police service; or
- (b) for the Crime and Corruption Commission—a commissioner or senior officer of the Crime and Corruption Commission; or
- (c) for any other law enforcement agency—a senior officer of the law enforcement agency; or
- (d) for the department in which the *Corrective Services Act 2006* is administered—the chief executive, a senior executive or a senior officer of the department in which the *Corrective Services Act 2006* is administered; or
- (e) for a court—the chief judicial officer or the proper officer of the court.

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## Part 5 Investigation and reformative action

### Division 1 Reports

#### 21A State Cultural Safety Outreach Team

- (1) The Commissioner must establish and maintain within the Commission a State Cultural Safety Outreach Team (*outreach team*).
- (2) The outreach team's function is to assist eligible entities in low population areas, regional areas and remote areas to establish and maintain cultural safety teams in accordance with this Youth Act.
- (3) The Commissioner must ensure that the outreach team—
  - (a) provides expert training, mentoring and coordination of resources; and
  - (b) facilitates recruitment and development of local First Nations liaison officers and cultural safety staff; and
  - (c) conducts on-site visits and advise on compliance self-assessments and progress monitoring; and
  - (d) be an advocate for First Nations People.
- (4) The Commissioner must make a guideline which states the requirements for entities to receive support from the outreach team based on remoteness, population size and local resource availability.
- (5) The Outreach Team must include in the Commissioner's annual report a summary of its activities and the compliance status of supported entities.

#### 22 Reporting contravention of duty of cultural safety

- (1) A person or people, including a person who is not a First Nations person or people, who believes that an entity has

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contravened its duty of cultural safety may make a report to the Commission about the contravention.

- (2) A report must—
  - (a) must be made in writing; and
  - (b) include sufficient information to enable the Commission to understand the substance of the report.
- (3) A report must be made within 2 years after the contravention by the alleged entity is alleged to have occurred.
- (4) Despite subsection (1), the Commission may, in exceptional circumstances, take action under section 24 in relation to a report made more than 2 years after the contravention by the alleged entity is alleged to have occurred, if—
  - (a) a report was made within 2 years after the contravention by the alleged entity is alleged to have occurred; and
  - (b) the entity the report is in relation to has been involved in 1 or more contraventions, not including the contravention that is the subject of the action under section 24.
- (5) For the purposes of subsection (2)(b)—
  - (a) unless an additional breach has occurred, the Commissioner must not—
    - (i) investigate the report; or
    - (ii) direct the entity to take reformative action; and
  - (b) any report that remains incomplete must be—
    - (i) managed and stored by the Commissioner for a period of 10 years from the date of the incident; and
    - (ii) discarded at the end of that period, unless a subsequent breach has occurred within that time, in which case all related reports must be considered together, investigated, and findings may be made.

## **23 Offence to take retaliatory action**

A person must not, because another person made a report—

- (a) prejudice, or threaten to prejudice, the safety or career of the person; or
- (b) intimidate or harass, or threaten to intimidate or harass, the person or another person; or
- (c) take any action that is, or is likely to be, detrimental to the person or another person.

Maximum penalty—200 penalty units or 2 years imprisonment.

## **24 Commissioner's action after receiving a report**

After receiving a report, the Commission—

- (a) must, within 14 days after receiving the report, acknowledge its receipt of the report; and
- (b) may do nothing or one or more of the following—
  - (i) commence an investigation under section 25;
  - (ii) request further information from the person who made the report or a person who was the subjected to the alleged contravention;
  - (iii) refer the report to another entity.

# **Division 2 Investigations and compliance**

## **25 Investigation after report or on own motion**

The Commission may, after receiving a report, on request or on its own motion, investigate an entity, including by monitoring, reviewing or auditing the entity, for the purpose of determining whether the entity is complying with its duty of cultural safety.

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## **25A Limitation on investigation powers**

- (1) The Commission may only investigate an entity after receiving a report or on its own motion if the Commissioner reasonably believes, after reviewing the report and making preliminary enquiries, that—
  - (a) an investigation is necessary having regard to information obtain after making preliminary enquiries; or
  - (b) the probability and potential seriousness of contravention of the duty of cultural safety is sufficiently high, having regard to criteria made by the Commissioner and published on the Commission’s website; or
  - (c) the inspection is in the public interest, having regard to the probability and potential seriousness of contravention of the duty of cultural safety and the Commission’s resources.
- (2) Further, an investigation may only occur after Commission has given the entity reasonable notice of the proposed review—
  - (a) notice may be as little as 48 hours and is not required if entry is to be made under a warrant.

## **26 Obligation to cooperate**

A entity must cooperate with any reasonable request made by the Commission in the course of an investigation.

## **Division 3 Reformative action**

### **27 What is a *tier 1 contravention*, *tier 2 contravention* and a *tier 3 contravention***

- (1) A *tier 1 contravention* is a contravention by an entity of its duty of cultural safety that is not a tier 2 contravention or a tier 3 contravention.

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- (2) A ***tier 2 contravention*** is a contravention by an entity of its duty of cultural safety that—
- (a) involves repeated conduct; or
  - (b) affects a moderate number of persons or peoples; or
  - (c) causes culture-related harm that is more than insignificant.
- (3) A ***tier 3 contravention*** is a contravention by an entity of its duty of cultural safety that—
- (a) is systemic; or
  - (b) affects a significant number of persons or peoples; or
  - (c) causes significant culture-related harm; or
  - (d) is intentional or reckless.

## **29 Commissioner may direct entity to take reformatory action**

- (1) This section applies if the Commissioner is satisfied, on reasonable grounds after the Commission has investigated the alleged contravention and given the entity a reasonable opportunity to respond, an entity has committed a contravention of its duty of cultural safety.
- (2) The Commissioner may direct, in writing, an entity or one or more of its staff to do one or more of the following—
- (a) for any contravention—
    - (i) participate in 10 hours of cultural safety training;
    - (ii) give a written apology or a statement of regret and reflection to the Commissioner;
    - (iii) review its or its staff's policies, processes, practices, structures and systems;
    - (iv) develop and implement a cultural safety action plan;

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- (v) undertake, participate in or complete an assessment of understanding, learning, progress or compliance;
  - (vi) submit periodic reporting;
  - (vii) participate in mentorship or supervision;
  - (viii) pay compensation not exceeding an amount equal to—
    - (A) for an individual—6 penalty units;
    - (B) otherwise—60 penalty units;
- (b) for a tier 2 contravention or a tier 3 contravention—
  - (i) participate in up to 10 hours of cultural safety training;
  - (ii) develop and implement a plan (a ***reconciliation plan***) which requires the entity to, in addition to one or more of the things mentioned in subsection (2)(a)(i) to (ix), do the following—
    - (A) publish a written apology or statement of regret and reflection;
    - (B) undertake or participate in a public cultural safety initiative;
    - (C) engage with at least First Nations persons or people subjected to the contravention;
  - (iii) pay compensation not exceeding—
    - (A) for an individual—30 penalty units;
    - (B) otherwise—300 penalty units;
- (c) for a tier 3 contravention—
  - (i) participate in up to 40 hours of cultural safety training;
  - (ii) undertake or participate in a restorative justice program or a cultural safety project;



- (iii) refrain from engaging in or carrying out a particular activity, business, undertaking or work until a thing mentioned in subparagraph (i) or (ii) is done;
  - (iv) pay compensation not exceeding an amount equal to—
    - (A) for an individual—150 penalty units;
    - (B) otherwise—1500 penalty units;
- (3) Subject to section 29B, the Commissioner may, in a direction given under subsection (2), impose conditions about—
  - (a) the design, content, size, scale, length or any other attribute of a thing an entity or its staff must development, implement, undertake or participate in; and
  - (b) the manner in which the entity or its staff must development, implement, undertake or participate in the thing.
- (3A) Further, the Commissioner may—
  - (a) for a tier 2 contravention—include the entity in the Register, stating the entity has committed in a tier 2 contravention, for a period at least 6 months but not exceeding 12 months; or
  - (b) for a tier 3 contravention—include the entity in the Register, stating the entity has committed in a tier 3 contravention, for a period at least 3 years but not exceeding 5 years.
- (3B) Also, the Commissioner may, by written notice, suspend any professional licence, accreditation or similar held by the entity until the reformative action directed under subsection (2) is complete.
- (3C) Further, if the contravention is a tier 3 contravention and the entity has previously committed a tier 3 contraventions within five years prior, the Minister may direct the entity's professional licence, accreditation or similar be permanently revoked.

[s 29A]

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## **29A Offences for failure to comply with mandated reformative actions**

- (1) An entity, including a person who is a member of an entity's staff, must complete a reformative action directed under section 29 within the period for completion under section 29B.

Maximum penalty—

- (a) if the reformative action remained incomplete for 52 weeks or less—1 penalty unit for each week or part of a week the reformative action remains incomplete, up to a maximum of 52 penalty units; or
  - (b) if the reformative action remained incomplete for 52 weeks or more—1 year's imprisonment.
- (2) It is a defence to a charge under this section to prove—
- (a) the person took all reasonable steps to complete the reformative action within the period for completion; and
  - (b) their failure to complete the reformative action within the period for completion occurred because of 1 or more of the following circumstances—
    - (i) serious illness or incapacity of the person or an employee;
    - (ii) reliance on a statutory notification, review or appeal process under this Youth Act;
    - (iii) a natural disaster, emergency or other event beyond the person's or entity's control;
    - (iv) any other exceptional circumstance prescribed by regulation.

## **29B Timeframes for completion of mandated reformative actions**

- (1) An entity directed to undertake reformative action following a tier 1 contravention under section 29 must complete the reformative action within 45 days after the direction is given.

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- (2) An entity directed to undertake a reformatory action following a tier 2 contravention must complete the reformatory action within 90 days after the direction is given.
- (3) An entity directed to undertake a reformatory action following a tier 3 contravention must complete the reformatory action within 180 days after the day on which the notice requiring the action is given.

## 29C Extension of timeframes

- (1) A person or entity may apply to a magistrate for an extension of the period for completion of a reformatory action under section 29B.
- (2) The magistrate may, on being satisfied that reasonable grounds exist, by order extend the period for completion by up to 30 days.
- (3) To remove any doubt, it is declared that there is no limit on the number of times a magistrate may extend the period for completion under this section.

## 30 Principles Commissioner must have regard to

In deciding whether to give a direction and what direction to give, the Commissioner must have regard to the following principles—

- (a) **First-Nations led**—reformatory action should be led or developed by persons who are culturally safe, are First Nations persons and have cultural authority;
- (b) **Tailored**—directions should be reflective of—
  - (i) the nature of the contravention;
  - (ii) the roles and duties performed by the entity or the staff the contexts and environments the entity operates in or the staff perform their roles and duties in; and
  - (iii) the scale of culture-related harm caused;

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- (c) **Verifiability**—directions should incorporate assessments of understanding, learning, progress or compliance;
- (d) **Prioritising reconciliation**—reconciliation, healing and education should be prioritised;
- (e) that, so far as is practicable, the Commissioner’s work should align with, and give practical effect to, national, State or local strategy, policy, agreement or standard aimed at improving outcomes for First Nations persons and peoples, including—
  - (i) the National Aboriginal and Torres Strait Islander Health Plan 2021–2031; and
  - (ii) the National Aboriginal and Torres Strait Islander Early Childhood Strategy; and
  - (iii) the Local Thriving Communities Action Plan 2022–24; and
  - (iv) a reconciliation action plan adopted by the State; and
  - (v) any successor or replacement strategy, policy, agreement or standard to a strategy, policy, agreement or standard mentioned in paragraph (i) to (iv).

### **30A Approved training and providers**

- (1) The Commissioner must approve cultural safety training and providers for the purposes of sections 21 and 29(2)(a)(i), (b)(i) and (c)(i).
- (2) The Commissioner may only approve a provider if the provider is—
  - (a) a grassroots First Nations-led entity, or working in genuine partnership with such an entity; and
  - (b) delivering culturally relevant cultural safety training; and

- (c) complies with any standards or guidelines about cultural safety training standards made by the Commissioner and published on the Commission's website.
- (3) The Commissioner must maintain a list of the approved cultural safety training and providers on its website.

## **Division 4                      Cultural Safety Register**

### **30B      Establishment of Register**

- (1) The Commissioner must keep and administer a register called the Cultural Safety Register.
- (2) The objects of the Register are—
  - (a) to record individuals and entities that have committed significant contraventions of the duty of cultural safety; and
  - (b) to monitor completion of reformatory actions; and
  - (c) to promote accountability in high-risk occupations; and
  - (d) to support transparent systemic improvement reporting.

### **30C      Criteria for inclusion**

An entity may be entered in the Register only if—

- (a) the Commissioner is satisfied, on reasonable grounds after the Commission has investigated the alleged contravention and given the entity a reasonable opportunity to respond, an entity has committed a contravention of its duty of cultural safety; and
- (b) either—
  - (i) the contravention is tier 2 contravention; or
  - (ii) the contravention is a tier 3 contravention; or
  - (iii) the contravention was committed by an entity involved in a high-risk occupation; or

[s 30D]

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- (iv) the reformative actions directed under section 29 in relation to the contravention have not been completed within the period for completion under section 29B.

### **30D Information recorded**

- (1) For a body corporate, the Register must record—
  - (a) the legal name, ABN or ACN and principal place of business; and
  - (b) the tier, nature and date of the contravention; and
  - (c) any reformative actions the body corporate was directed to undertake under section 29 and their completion status; and
  - (d) the entry date and expected removal date.
- (2) For an individual, the Register must record—
  - (a) the full name and occupation; and
  - (b) the tier, nature and date of the contravention; and
  - (c) any reformative actions the individual was directed to undertake under section 29 and their completion status; and
  - (d) the entry date and expected removal date.

### **30E Public and restricted sections**

- (1) The Register consists of—
  - (a) a public section containing every entry for a corporation; and
  - (b) a restricted section containing every entry for an individual.
- (2) Entries in the public section must be published, without charge, on the Commission's website in a searchable format.
- (3) Information in the restricted section may be disclosed only—

- (a) to a licensing or regulatory body that needs the information to perform a statutory function; or
- (b) to a current or prospective employer in a high-risk occupation who needs the information for a lawful compliance check; or
- (c) to a complainant or person directly affected by the contravention of the duty of cultural safety; or
- (d) under a public-disclosure order made under section 30AE.

### **30F Minister's public-disclosure order for repeat individual contraventions**

- (1) The Minister may, by written order (a *public-disclosure order*), direct that an individual's entry be moved from the restricted section to the public section if satisfied that—
  - (a) the individual has—
    - (i) committed a tier 3 contravention and then a further contravention of the duty of cultural safety while the entity remains listed on the Register for the tier 3 contravention; or
    - (ii) committed 3 or more tier 2 contraventions within 5 years; and
  - (b) public disclosure is in the public interest.
- (2) At least 14 days before making the order the Minister must give the individual written notice of the proposed order and an opportunity to make submissions.
- (3) The order must be published on the Commission's website and notified in the gazette.

### **30G Review and monitoring**

- (1) While an entry remains current the Commissioner must review compliance at least every six months.

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- (2) A review must consider completion of reformatory actions, evidence of behavioural change and ongoing risk.

### **30H Removal from Register**

- (1) A person or entity may apply, in the approved form, for early removal from the Register.
- (2) The application must show—
  - (a) completion of all mandated reformatory actions; and
  - (b) sustained compliance with cultural safety obligations.
- (3) The Commissioner must decide the application within 60 days and give written reasons.

## **Part 6 Dealing with contravention of duty of cultural safety under other laws**

### **31 Failure to comply with duty of cultural safety actionable in tort**

An entity's contravention of its duty of cultural safety which causes harm to a First Nations person or people is actionable by the First Nations person or people harmed as if it was a breach of duty owed to the person or people in tort.

### **32 Failure to comply with duty of cultural safety actionable under Anti-Discrimination Act 1991**

- (1) A First Nations person or people subjected to a contravention of an entity's duty of cultural safety may make a complaint about the failure under *Anti-Discrimination Act 1991*, section 134.
- (2) For subsection (1), the *Anti-Discrimination Act 1991* applies as if the entity's failure was a contravention of that Act.



**33 Failure to comply with duty of cultural safety actionable under the Work Health and Safety Act 2001**

- (1) The Commissioner or a member of the Commission's staff authorised by the Commissioner, either generally or in a particular case, may make an application under the *Work Health and Safety Act 2001*, section 255 about an entity's contravention of its duty of cultural safety.
- (2) For subsection (1), the *Work Health and Safety Act 2001* applies as if—
  - (a) the contravention is a contravention of a WHS civil penalty provision that does not have a maximum penalty; and
  - (b) the Commissioner or the member of the Commission's staff is the WHS prosecutor.

## **Part 7 Amendment of Acts**

### **Division 1 Amendment of Human Rights Act 2019**

**34 Act amended**

This division amends the *Human Rights Act 2019*.

**35 Amendment of s 7 (Meaning of *human rights*)**

Section 7, 'part 2, divisions 2 and 3'—

*omit, insert—*

part 2, divisions 2 and 3, and the right to cultural safety under the *First Nations Cultural Safety Youth Act 2015*.

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## **Division 2                      Amendment of Constitution of Queensland 2001**

### **36        Act amended**

This division amends the *Constitution of Queensland 2001*.

### **37        Amendment of preamble**

Preamble, after paragraph (c)—

*insert—*

- (ca) acknowledge and honour the Aboriginal peoples and Torres Strait Islander peoples of tribes within Queensland as the traditional custodians of the land, sea and sky which we all now treasure; and
- (cb) aim to uphold the traditions and cultures of Aboriginal peoples and Torres Strait Islander peoples past, present and emerging; and
- (cc) affirm that First Nations are not just custodians of the land; they are a part of it and born from it; and
- (cd) recognise that honouring First nations Peoples and paying tribute to their unique values and cultures means that Queensland must—
  - (i) ensure Aboriginal persons and peoples and Torres Strait Islander persons and peoples may full exercise their right to cultural safety; and
  - (ii) commit to continuously work towards reconciliation, equality and truth telling.

## **Division 3                      Amendment of Youth Justice Act 1992**

### **38        Act amended**

This division amends the *Youth Justice Act 1992*.

### **39        Amendment of s 151 (Pre-sentence report)**

Section 151—

*insert—*

(3A) Further, a court must make the order if child  
is an Aboriginal person or a Torres Strait  
Islander person.