

Proclamation – *Meriba Omasker Kaziw Kazipa (Torres Strait Islander Traditional Child Rearing Practice) Act 2020*

Explanatory notes for SL 2021 No. 25

made under the

Meriba Omasker Kaziw Kazipa (Torres Strait Islander Traditional Child Rearing Practice) Act 2020

General Outline

Short title

Meriba Omasker Kaziw Kazipa (Torres Strait Islander Traditional Child Rearing Practice) Act 2020

Authorising law

Section 2 of the *Meriba Omasker Kaziw Kazipa (Torres Strait Islander Traditional Child Rearing Practice) Act 2020*

Policy objectives and the reasons for them

The policy objective of the proclamation is to commence the *Meriba Omasker Kaziw Kazipa (Torres Strait Islander Traditional Child Rearing Practice) Act 2020* (the Act) in two stages (1 April 2021 and 1 July 2021) to allow for an effective implementation.

The purpose of the Act is to legally recognise Torres Strait Islander families' continued use of traditional child rearing practice since time immemorial by providing a voluntary application process, and decision making framework by an independent statutory Commissioner.

Commencement of the Act will allow eligible Torres Strait Islander families to apply for a cultural recognition order, and empower the Commissioner to consider and decide applications received.

Prior to receiving applications for a cultural recognition order, the appointment of the Commissioner and establishment of the Office of the Commissioner must occur first, as a crucial part of the implementation phase for the service. As such, provisions relating to the Commissioner and the Office will commence on 1 April 2021.

Achievement of policy objectives

The policy objective of the proclamation is achieved by commencing the Act in two stages as set out in schedule 1 of the proclamation:

- 1 April 2021 as fixed date of commencement for: part 1 to the extent it is not in force; parts 2 and 3; sections 102 and 103; part 11; sections 108 to 112; part 13, divisions 10, 13 and 14; and schedule 1 of the Act;
- 1 July 2021 as fixed date of commencement for all provisions under the Act not in force and not otherwise commenced under the proclamation.

Consistency with policy objectives of authorising law

The proclamation is consistent with the main objectives of the Act, that is, to legally recognise Torres Strait Islander families' continued use of traditional child rearing practice since time immemorial by providing a voluntary application process, and decision making framework by an independent statutory Commissioner.

Inconsistency with policy objectives of other legislation

The proclamation is consistent with the policy objectives of other legislation and necessary amendments to other relevant Acts will commence as set out in the schedule 1 of the proclamation.

Benefits and costs of implementation

Commencement of the Act in two stages allows for the effective implementation of the service to legally recognise Torres Strait Islander families' continued use of traditional child rearing practice. This will acknowledge the importance of culture underpinning Torres Strait Islander family structures, community and social networks, and resolve long-standing issues faced by Torres Strait Islander people whose legal identity does not reflect their cultural identity and lived experience.

The cost of implementing the proclamation (that is, implementation of the Act) involve:

- providing for a full-time Commissioner to make decisions under the legislation;
- establishing an office to support the work of the Commissioner;
- establishing an office within the Department of Seniors, Disability Services and Aboriginal and Torres Strait Islander Partnerships to provide support to applicants;
- providing optional legal support and interpreter costs for parties to applications for a cultural recognition order;
- promoting community awareness and education of a new Act; and

- providing resourcing and costs for Registrar of Births, Deaths and Marriages' and Queensland Courts' interaction with the operational components with the Act.

Consistency with fundamental legislative principles

The proclamation is consistent with fundamental legislative principles by way of the Act was developed with regard to the fundamental legislative principles as defined in section 4 of the *Legislative Standards Act 1992* (LSA).

Consultation

Extensive state-wide public consultation has been undertaken in 2018 with Torres Strait Islander communities, representatives from non-government organisations, the legal sector and State and Commonwealth government agencies to inform the development of Act. Targeted consultation occurred in February 2020 on an exposure draft of the legislation and proposed framework.