Anti-Discrimination Amendment (Complaint Handling) Bill 2020

Explanatory note
This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill
The object of this Bill is to make further provision with respect to the declining of certain complaints by the President of the Anti-Discrimination Board and to remove the requirement for the President to refer certain declined complaints to the Civil and Administrative Tribunal.

Outline of provisions
Clause 1 sets out the name (also called the short title) of the proposed Act.
Clause 2 provides for the commencement of the proposed Act on the date of assent to the proposed Act.

Schedule 1 Amendment of Anti-Discrimination Act 1977 No 48
Schedule 1[2] omits a provision relating to the making of complaints in more than one jurisdiction.
Schedule 1[3] provides that the President of the Anti-Discrimination Board must decline certain complaints made to the President.
Schedule 1[4] inserts additional grounds on which the President must decline a complaint made to the President. These grounds are as follows—
(a) the President is of the opinion that the complaint, or part of the complaint, is frivolous, vexatious, misconceived or lacking in substance,
(b) the President is of the opinion there is another more appropriate remedy that should be pursued in relation to the complaint or part of the complaint,

(c) the subject-matter of the complaint has been dealt with by the President, an authority of the State or the Commonwealth,

(d) the President is of the opinion that the subject-matter of the complaint may be more effectively or conveniently dealt with by an authority of the State or the Commonwealth,

(e) one or more of the respondents is an individual who has made a public statement to which the complaint relates and, at the time of making the statement, was—
   (i) a resident of another State or Territory, and
   (ii) unless otherwise established by the complainant, not in New South Wales,

(f) the complaint falls within an exception to the unlawful discrimination concerned,

(g) the respondent has a cognitive impairment and it is reasonably expected that the cognitive impairment was a significant contributing factor to the conduct that is the subject of the complaint.

Schedule 1[5] clarifies the matters the President is to consider before determining that a complaint is frivolous, vexatious, misconceived or lacking in substance and inserts definitions used in the proposed amendments to section 89B.


Schedule 1[9] clarifies the matters the President is to consider before being satisfied that a complaint is frivolous, vexatious, misconceived or lacking in substance for the purposes of declining the complaint at any stage of the President’s investigation of a complaint.

Schedule 1[11] omits a provision that requires the President to refer certain declined complaints to the Civil and Administrative Tribunal at the request of the complainant. Schedule 1[1], [8], [10], [12] and [13] make consequential amendments.

Schedule 1[14] provides that an amendment made to the Anti-Discrimination Act 1977 by the proposed Act does not apply to a complaint that was made before the commencement of the proposed Act.