



New South Wales

# 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[7]** provides that the President must decline certain complaints during investigation. **Schedule 1[6]** makes a consequential amendment.

**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.