

Coroners (Mining and Resources Coroner) Amendment Bill 2025

Statement of Compatibility

Prepared in accordance with Part 3 of the *Human Rights Act 2019*

In accordance with section 38 of the *Human Rights Act 2019*, I, Deb Frecklington, Attorney-General and Minister for Justice and Minister for Integrity, make this statement of compatibility with respect to the Coroners (Mining and Resources Coroner) Amendment Bill 2025 (the Bill).

In my opinion, the Bill is compatible with the human rights protected by the *Human Rights Act 2019*. I base my opinion on the reasons outlined in this statement.

Overview of the Bill

The Bill proposes to amend the *Coroners Act 2003* (Coroners Act) to:

- establish the position of a dedicated Mining and Resources Coroner, to be appointed by Governor in Council;
- provide that the Mining and Resources Coroner must undertake mandatory coronial investigations and inquests into all accidental mining-related deaths, which will include deaths that occur on mines, coal mines and quarries, as well as particular sites where petroleum and gas works are carried out; and
- make minor, technical amendments to enable preliminary examinations in relation to all reports to a coroner and enable multiple Deputy State Coroner appointments.

These investigations and inquests will be undertaken within the existing coronial framework and the Mining and Resources Coroner will rely on the functions and powers of a coroner under the Coroners Act.

The amendments in the Bill are intended to give effect to the Government Election Commitment (GEC) to re-establish and increase the powers of the Mining Warden's Court, to investigate fatal accidents on the state's mine and quarry sites.

Human Rights Issues

Human rights relevant to the Bill (Part 2, Division 2 and 3 *Human Rights Act 2019*)

The human rights under the *Human Rights Act 2019* (HR Act) that are relevant to the proposal contained in the Bill are:

- Taking part in public life (section 23); and
- Privacy and reputation (section 25).

Human Right Promoted

The *right to life* under section 16 of the HR Act states that every person has the inherent right to life. Public entities have a positive duty to protect people from real and immediate risks to life.

The Bill establishes a dedicated Mining and Resources Coroner who will investigate and hold mandatory inquests into all mining-related reportable deaths and make recommendations where appropriate to prevent similar deaths from occurring in the future.

This will promote the right to life by ensuring systemic failures which may have caused the death to occur to be identified, with a view to preventing similar deaths in the future.

If human rights may be subject to limitation if the Bill is enacted – consideration of whether the limitations are reasonable and demonstrably justifiable (section 13 HR Act)

Right to Privacy and Reputation

(a) the nature of the right

Section 25 of the HR Act states that a person has a right not to have the person's privacy, family, home or correspondence unlawfully or arbitrarily interfered with. This right protects the privacy of people from unlawful or arbitrary interference.

The Bill requires that mandatory inquests are conducted for all accidental mining-related reportable deaths that fall within the scope of the Mining and Resources Coroner. The Bill will give the Mining and Resources Coroner the full powers and functions of a coroner to investigate and conduct inquests into each mining-related death to help prevent deaths from similar causes occurring in the future.

The right to privacy for individuals who are required to participate in an investigation and/or inquest will be limited. Particularly, the Mining and Resources Coroner will be able to require a person to provide information or evidence, which may include self-incriminating evidence during an inquest.

The Bill limits the right to privacy as the mandated inquest may require people not otherwise compelled to give evidence, to be required to where the Mining and Resources Coroner is satisfied that it is in the public interest to do so.

Consistent with the Coroners Act, inquest findings will be published to promote transparency and accountability of recommendations. This limits the right to privacy, as the information provided within the findings may not have been published had an inquest not been undertaken.

(b) the nature of the purpose of the limitation to be imposed by the Bill if enacted, including whether it is consistent with a free and democratic society based on human dignity, equality and freedom

The purpose of the limitation to the right to privacy and reputation, where witnesses can be compelled to give self-incriminating evidence, is to ensure that the Mining and Resources Coroner can establish a clear and complete understanding of the death and prevent similar deaths from occurring in the future and thereby promote the right to life.

In accordance with the Coroners Act, the Mining and Resources Coroner will not be bound by the rules of evidence and will have the power to inform themselves in any way they consider appropriate, including the power to order a person to attend an inquest as a witness and give self-incriminating evidence. The purpose of this power is to place the Mining and Resources Coroner in the best position to acquire all facts relating to the cause of the death, which will assist them to make appropriate comments or recommendations.

The purpose of limiting the right to privacy in relation to publishing inquest findings and recommendations that may include personal information is to promote transparency and accountability, particularly for the entities towards which recommendations have been directed. It is in the public interest that systemic issues that may have been identified by the Mining and Resources Coroner are addressed and monitored, so that avoidable causes of deaths occurring within mines, coal mines, quarries and petroleum and gas sites can be prevented.

(c) *the relationship between the limitation to be imposed by the Bill if enacted, and its purpose, including whether the limitation helps to achieve the purpose*

There is a strong rational connection between the provision of clear powers to compel witnesses to give self-incriminating evidence and achieving the purpose of promoting the right to life by preventing similar deaths from occurring in the future. This, in turn, will ensure that any findings and recommendations made by the Mining and Resources Coroner are fully informed to provide the best outcomes. This limitation to the right to privacy is consistent with existing coronial frameworks.

The limitation in relation to publishing information will achieve the purpose by providing the public with access to important information about coronial inquests, which is intended to ensure entities are held to account to implement recommendations to reduce the likelihood of similar deaths from occurring in the future.

(d) *whether there are any less restrictive (on human rights) and reasonably available ways to achieve the purpose of the Bill*

There are no less restrictive or reasonably available alternatives to achieve the purposes of the limitations on the right to privacy and reputation.

Without the ability to compel the disclosure of self-incriminating evidence, the Mining and Resources Coroner would not be able to access all information that may be relevant to a coronial inquest which would impact the ability of the coroner to make informed findings and recommendations. The requirements are objective and reasonable in that they are consistent with the existing powers and functions of coroners under the Coroners Act, and the limitation is mitigated to the extent that the power to compel self-incriminating evidence is only exercised by a coroner if it is in the public interest to do so.

The ability of the Mining and Resources Coroner to make informed findings and recommendations is integral in preventing similar deaths from occurring.

(e) *the balance between the importance of the purpose of the Bill, which, if enacted, would impose a limitation on human rights and the importance of preserving the human rights, taking into account the nature and extent of the limitation*

The right to privacy and reputation is broad and must be balanced against other rights and competing interests. The limitations on the right by providing the Mining and Resources Coroner with the powers to compel witnesses to give self-incriminating evidence, and to publicly publish recommendations and findings, are reasonable and demonstrably justified when balanced against the public interest and promotion of the right to life.

(f) *any other relevant factors*

The Coroners Act, section 39, provides existing safeguards that will apply to the Mining and Resources Coroner in relation to the use of self-incriminating evidence, as follows:

- In order to compel a witness to give self-incriminating evidence, the coroner must be satisfied that it is in the public interest for the witness to do so.
- The evidence is not admissible against the witness in any other proceeding, other than a proceeding for perjury (section 39(3))
- Derivative evidence is not admissible against the witness in a criminal proceeding (section 39(4)). Derivative evidence means any information, document or other evidence obtained as a direct or indirect result of the evidence given by the witness.

The Coroners Act (section 41) also allows the Mining and Resources Coroner to make an order prohibiting the publication of information relation to, or arising at, an inquest or pre-inquest conference. The maximum penalty for contravening a non-publication order is 150 penalty units.

The Coroners Act (section 29) also provides existing safeguards that will apply to the Mining and Resources Coroner on when an inquest can take place. If a person has been charged with an offence in which the question of whether the accused caused the death may be in issue, the Mining and Resources Coroner will be required to delay commencement of an inquest until the offence proceedings have been finalised.

Taking part in public life

(a) *the nature of the right*

Section 23(2) of the HR Act states that every eligible person has the right, and is to have the opportunity, without discrimination to have access, on general terms of equality, to the public service and to public office.

To ensure access to positions in public office on general terms of equality, the criteria and process of appointment, promotion, suspension and dismissal must be objective and reasonable. The right in section 23 is limited to ‘eligible persons’, which provides for the prescribing of matters such as eligibility for membership to a body or statutory office.

The right to take part in public life will be limited by the proposed requirements on eligibility of the person to be appointed as the Mining and Resources Coroner. The Bill provides that the Mining and Resources Coroner must be a local coroner appointed by Governor in Council. Before making a recommendation to Governor in Council, the Attorney-General must first consult with the Chief Magistrate and the State Coroner. Local coroners are magistrates, with appointment criteria for magistrates outlined in the *Magistrates Act 1991* (Magistrates Act).

(b) The nature of the purpose of the limitation to be imposed by the Bill if enacted, including whether it is consistent with a free and democratic society based on human dignity, equality and freedom

The purpose of the limitation is to ensure that the person appointed as the Mining and Resources Coroner has the appropriate experience to perform the role and functions.

This is a proper purpose consistent with a free and democratic society based on human dignity, equality and freedom.

(c) the relationship between the limitation to be imposed by the Bill if enacted, and its purpose, including whether the limitation helps to achieve the purpose

The limitation will achieve the purpose by ensuring the Mining and Resources Coroner fulfils eligibility criteria for a coroner outlined in the Coroners Act and the Magistrates Act. This is intended to ensure that the Mining and Resources Coroner has the relevant expertise and functions required to investigate and hold inquests of both non-mining and mining-related deaths. Pursuant to the Coroners Act requirements regarding eligibility of a coroner, the Mining and Resources Coroner will stop being a coroner if they are suspended or cease being a magistrate.

(d) whether there are any less restrictive (on human rights) and reasonably available ways to achieve the purpose of the Bill.

There are no less restrictive or reasonably available alternatives to prescribing the eligibility requirements for the appointment of a Mining and Resources Coroner. The requirements of eligibility are consistent with existing criteria for appointments under the Coroners Act and Magistrates Act.

(e) the balance between the importance of the purpose of the Bill, which, if enacted, would impose a limitation on human rights and the importance of preserving the human rights, taking into account the nature and extent of the limitation

The limitation of the right is reasonable and demonstrably justified as the eligibility requirements are not considered to impose arbitrary requirements and achieve an appropriate balance to ensure that a person appointed as the Mining and Resources Coroner is appropriately qualified to exercise the powers of the Coroner's Court and undertake the role and functions of a coroner.

Conclusion

In my opinion, the Coroners (Mining and Resources Coroner) Amendment Bill 2025 is compatible with human rights under the HR Act because it limits a human right only to the extent that is reasonable and demonstrably justifiable in accordance with section 13 of the HR Act.

Deb Frecklington MP
Attorney-General and Minister for Justice and Minister for Integrity