



The Hon. Rob Hulls
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4 December 2008

Via Email: rob.hulls@parliament.vic.gov.au

Coroners Bill 2008 – Scope of the Coroners Court as a Public Authority

Dear Attorney-General,

We refer to your response to the Scrutiny of Acts and Regulations Committee ('SARC') dated 17th November 2008 in relation to the above Bill.

We remain concerned that Clause 129 of the Bill and Item 5 of Schedule 2, amending s 3 of the *Charter of Human Rights and Responsibilities Act 2006*, create uncertainty and ambiguity, because it remains unclear which clauses of the Bill pertain to the Court acting in a judicial capacity, and which pertain to the Court acting in an administrative capacity.

Consequently, we believe that there may be ongoing inconsistencies in interpretation and application regarding whether in any particular context the Court is a public authority under the Charter (and therefore subject to s 38), or whether the Court is not a public authority under the Charter (and therefore is only bound by s 32).

Your response to the SARC states by way of example clauses 47, 48 and 103 of the Bill as provisions requiring the exercise of judicial power by the Court. You also say that 'most of the functions of the Court would be administrative'.

We seek further clarification as to exactly which clauses entail the Court exercising administrative decision-making (and thus the Court would be bound by s 38 of the Charter), and which clauses entail the Court exercising judicial powers (and thus the Court would be bound by s 32 but not s 38).

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We believe that greater clarity of this issue is critical to proper examination of the Bill, particularly in terms of its impacts on the fundamental protection of the human right to life as provided by s 9 of the Charter.

Sincerely

A handwritten signature in black ink, appearing to read 'Chris Atmore', written in a cursive style.

Dr Chris Atmore
Policy Officer