

Personal Liability for Corporate Fault Reform Bill 2012

Introduced into the House of Representatives on 19 September 2012

Portfolio: Treasury

1.2 This bill makes amendments to personal criminal liability for corporate fault in various Commonwealth laws. The amendments will:

- remove personal criminal liability for corporate fault where such liability is not justified;
- remove the burden of proof on defendants to establish a defence to a charge;
- replace personal criminal liability for corporate fault with civil liability where a non-criminal penalty is appropriate; and
- where personal criminal liability is justified, to make clear the level of fault or involvement necessary to trigger such liability.

1.3 The bill implements the COAG Directors' Liability reform, which aims to harmonise the imposition of personal criminal liability for corporate fault across Australian jurisdictions. The reforms seek to address concerns over a trend in regulatory legislation to hold company officers criminally liable when their company breaches a statutory requirement (derivative liability).

Presumption of innocence

1.4 The statement of compatibility states that the bill:

engages and promotes the right to the presumption of innocence in Article 12 [sic] of the International Covenant on Civil and Political Rights. The bill amends provisions to remove obligations on defendants to show an applicable defence. Removing this obligation promotes the presumption of innocence.

1.5 The committee considers that the bill does not appear to raise any human rights concerns and the statement of compatibility is adequate.