

Senate Standing Committee on Economics

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Budget Estimates

29 May – 31 May 2012

Question: BET 378-379

Topic: Harmonised Directors' Liability Legislation

Hansard Page: Written

Senator PAYNE asked:

378. Can you please outline the timeframe for the finalisation of harmonised directors' liability legislation, including planned introduction to parliaments?
379. With respect to directors' liability reform, has the report from Corrs Chambers Westgarth that the COAG Reform Council recommended be used to advance the remaining 2011-12 work been taken into account, and what measures, analyses or recommendations contained in the report have been acted on or are being acted on?

Answer:

378. The Personal Liability for Corporate Fault Reform Bill was introduced into the House of Representatives on 19 September 2012 and referred to the Parliamentary Joint Committee on Corporations and Financial Services. Public consultation on the proposed amendments to directors' liability provisions in Commonwealth legislation has been undertaken through the exposure of draft legislation in three separate tranches; with changes made to the Bill where appropriate. States and Territories have advised that they intend to introduce omnibus legislation to implement proposed reforms by December 2012 to meet the COAG milestones for this reform.
379. The reports from Corrs Chambers Westgarth (the Corrs report) and the COAG Reform Council (CRC) have been taken into account in developing the Personal Liability for Corporate Fault Reform Bill 2012 (the Bill). To address the concerns raised in those reports, the Business Regulation and Competition Working Group (BRCWG) developed a revised Reform Implementation Plan that required:
- a) BRCWG to develop more detailed guidelines to the COAG Principles to provide greater clarity and consistency for jurisdictions as to the manner in which the COAG Principles are to be applied,
 - b) Jurisdictions to review their audits of existing legislation against the COAG Principles in light of the more detailed Guidelines and the recommendations of the Corrs Report; and
 - c) Following the review, all jurisdictions, through the BRCWG sub-committee, to collectively review the audit outcomes to ensure that all jurisdictions had applied the COAG Principles appropriately and consistently.

The coordinated approach between Commonwealth, State and Territory jurisdictions taken in line with the revised implementation plan ensured that the COAG Principles had been applied in a consistent manner across jurisdictions. This effectively addresses the concerns raised in the CRC and Corrs Report and informed the development of the Bill.