



Protecting your Position

South Australian laws imposing
personal liability on directors
and officers



MinterEllison

About the Authors



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Steven's practice involves advising both domestic and foreign investors on establishing businesses in Australia and undertaking acquisitions in Australia.

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Introduction

Welcome to the third edition of *Protecting your Position* in relation to the laws of South Australia.

In recent years, there has been a growing concern by company directors and officers regarding the seeming explosion of legislation at Commonwealth, State and Territory level that imposes personal liability on directors and officers for failing to ensure that the corporate vehicles they manage comply with the law. Prior to the Council of Australian Governments (COAG) reform process, there were well over 700 laws at Commonwealth, State and Territory level imposing personal liability on company directors and officers for the actions of their companies. These were in addition to duties imposed by the *Corporations Act 2001* (Cth).

In the last few years we have seen the Commonwealth and a number of States announce the repeal or modification of many laws imposing personal liability on company directors and officers in response to the COAG review. So far, reforms to director liability laws have been announced or introduced in Queensland, New South Wales, Victoria, South Australia, Tasmania, the Australian Capital Territory and at a Commonwealth level.

In South Australia, the South Australian Government passed the *Statutes Amendment (Directors' Liability) Act 2011* (SA) and the *Statutes Amendment (Directors' Liability) Act 2013* (SA). In broad terms, the Acts:

- amended some 25 and 43 statutes that imposed personal liability on directors and officers respectively; and
- introduced two new types of provisions which either provided for an unable to influence defence or included three fault elements (Type 1 and Type 2 provisions using our categorisation below).

That being said, there are still in excess of 60 South Australian statutes, which impose personal liability on directors and officers.

In addition, the differences in approach taken by each State and Territory and the fact that Western Australia and the Northern Territory have not proposed any amendments to laws imposing personal liability on directors and officers, means that three key policy issues remain.

The first is the desirability of a system which imposes personal liability on directors and officers (which allows for the imposition of various sanctions on those found guilty, ranging from imposition of fines to lengthy jail terms) in an ad hoc and inconsistent way across Australian jurisdictions. The extent of the inconsistency is considerable. MinterEllison research shows that although reforms may have reduced the number of types of provisions imposing personal liability within each State and Territory, there is still a substantial variation between the States and Territories which each have their own unique way of drafting its laws. The consequence is that across Australia there are many hundreds of laws imposing personal liability on directors and officers, many of which are drafted in different terms, and with different defences available.

There is no doubt that this unnecessarily inconsistent legislative regime creates significant burdens for directors of companies carrying on businesses across a number of States or where their businesses are subject to significant regulation. Indeed, the Corporations and Markets Advisory Committee (CAMAC) in their Report entitled *Personal Liability for Corporate Fault*, released in September 2006, recommended substantial reform in the area, including that attempts be made to introduce a nationally uniform model provision which imposes personal liability on directors and officers.

Introduction (cont'd)

The second issue of concern is that the classes of persons who can be liable for corporate statutory breaches can differ between statutes, and between laws in different states.

The third significant area of concern for directors and officers is that some jurisdictions have retained provisions which impose strict liability on company directors and officers, thereby reversing the usual onus of proof in criminal proceedings by rendering directors and officers automatically liable if the corporation commits an offence, with the defendant having to prove that one of the statutory defences is available in order to escape from liability.

This means that although there has been significant reform in this area there is still some way to go in order for there to be a nationally consistent approach. The consequence of the current legislative approach is that, for the time being, in order to minimise liability, directors would be wise to:

- make an assessment of which Acts apply to the activities of their companies;
- understand what obligations the legislation imposes both upon the company and upon themselves;
- ensure adequate systems are in place so that the company does not contravene its obligations;

- take whatever steps they can to ensure that even if the company still breaches the law they can avail themselves of relevant defences (for example, setting up a robust due diligence process);
- identify which executives are likely to be exposed to personal liability under which Acts, ensure they are made aware of any potential risks and involve them in discussions about how to limit personal liability; and
- take appropriate steps to ensure that directors' and officers' insurance policies provide maximum protection for all those exposed to personal liability.

This publication is designed to assist directors in identifying those laws which may apply to their companies and which may expose them to personal liability, and to provide details of defences which might be available to them.

With the exception of environmental and occupational health and safety matters, regulators have not consistently prosecuted directors for corporate breaches. However, many laws allow them to do so and it is only likely to be a matter of time before we see an expansion in prosecutions of directors and other company officers.

Overview

1 Definitions

The following definitions are provided as an aid to understanding this publication and are merely a guide to each the meaning of each term as used in this jurisdiction. For the specific meaning of each term refer to the legislation in question.

Yes, if a corporate breach is established means liability is imposed on a person who is not the chief actor in respect of the offence but is nonetheless concerned with the perpetration of the offence by virtue of their position.

body corporate means:

- (a) a corporation as defined in the *Corporations Act 2001* (Cth); or
- (b) any other body incorporated under any other Act or law.

corporation means company incorporated under the *Corporations Act 2001*(Cth).

director, in relation to a corporation, means a person who is appointed to the position of a director.

manager of a corporation means a person who is charged with the management or direction of a corporation.

officer of a corporation means:

- (a) a director of the corporation; or
- (b) a person who is otherwise concerned in the management of the corporation.

onus of proof means the legal obligation on a party asserts a matter to adduce sufficient supporting evidence to satisfy the required standard of proof.

primary liability means liability is imposed directly on the person who is the chief actor in respect of the offence.

2 How to Read This Publication

This document is divided into the following columns.

2.1 Provisions

This column lists the South Australian Acts imposing personal liability on directors and officers in alphabetical order with references to the relevant sections within each Act and a brief overview of the content of each section.

2.2 Who is liable?

This column details the person or party within the corporation who is liable under the relevant provision.

2.3 Is the liability automatic?

This column details whether the liability imposed is automatic, such that the person or party within the corporation is deemed to be liable when the corporation contravenes the relevant Act, part of the Act or section of the Act, or the liability is not automatic and arises only in prescribed circumstances.

2.4 Defence of ‘Due Diligence’

This column notes whether there is a defence of due diligence under the relevant provision. Whilst the wording of this defence may vary from Act to Act, the defence essentially applies where the relevant party was in a position to influence the conduct of the corporation in relation to the offence and has exercised all due diligence to prevent to the contravention.

2.5 Defence of ‘Unable to Influence’

This column notes whether it is a defence for the relevant party to prove that they were not in a position to influence the conduct of the corporation in relation to the offence. Note that the wording of this defence varies from Act to Act.

2.6 Additional Defences

This column details any additional defences for the relevant provision.

2.7 Onus of Proof for Defence

The onus of proof refers to the legal obligation on a party who asserts a matter to adduce sufficient supporting evidence to satisfy the required standard of proof. In all of the provisions detailed in this publication, the onus of proof is on the accused to establish a defence.

2.8 Type of Provision

In this column, the provisions are categorised in accordance with the ‘Summary of Types of Provisions’ set out below.



3 Summary of Types of Provisions

There are essentially two types of statutory provisions which impose personal liability on individuals in corporations in South Australia.

3.1 Type 1 Provision

Type 1 provisions impose liability on officers of a body corporate if the body corporate is guilty of an offence unless the member proves that the person could not, by the exercise of due diligence, have prevented the commission of the offence.

An example of this type of provision is section 38(1) of the *Animal Welfare Act 1985*, which provides that:

38 Offences by bodies corporate

- (1) If a body corporate is guilty of a prescribed offence, each member of the governing body of the body corporate is guilty of an offence and liable to the same penalty as is prescribed for the principal offence unless the member proves that he or she could not by the exercise of due diligence have prevented the commission of the offence.

3.2 Type 2 Provision

Type 2 provisions impose liability on officers of a body corporate if the body corporate is guilty of an offence and the officer:

- (a) knew, or ought reasonably to have known, that there was a significant risk that such an offence would be committed;
- (b) was in a position to influence the conduct of the body corporate in relation to the commission of such an offence; and

- (c) failed to exercise due diligence to prevent the commission of the offence.

An example of this type of provision is section 38(2) of the *Animal Welfare Act 1985*, which provides that:

38 Offences by bodies corporate

- (2) If a body corporate is guilty of any other offence against this Act (other than an offence against the regulations), each member of the governing body of the body corporate is guilty of an offence and liable to the same penalty as is prescribed for the principal offence if the prosecution proves that –
 - (a) the member knew, or ought reasonably to have known, that there was a significant risk that such an offence would be committed; and
 - (b) the member was in a position to influence the conduct of the body corporate in relation to the commission of such an offence; and
 - (c) the member failed to exercise due diligence to prevent the commission of the offence.

3.3 Type 3 Provision

All other provisions are described as Type 3 provisions, which impose liability on individuals in corporations in a variety of circumstances.

South Australian laws
imposing personal liability
on directors and officers

South Australian laws imposing personal liability on directors and officers

Provision	Who is liable?	Is the liability automatic?	Defence of 'Due Diligence'	Defence of 'Unable to Influence'	Additional Defences	Onus of Proof	Type of Provision
<i>Aboriginal Heritage Act 1988</i> s 41(2): Vicarious Liability.	Each member of the governing body of the Body Corporate	Yes, if a corporate breach is established.	N/A	The person could not, by the exercise of reasonable diligence, have prevented the commission of that offence.	N/A	Onus on the accused to establish a defence.	Type 1
<i>Adelaide Dolphin Sanctuary Act 2005</i> s 49: Offences by Bodies Corporate.	Each member of the governing body, and the manger, of the Body Corporate.	Yes, if a corporate breach is established.	N/A	N/A	Section 50 provides: It is a defence if the defendant proves that the alleged offence was not committed intentionally and did not result from any failure on the part of the defendant to take reasonable care to avoid the commission of the offence.	Onus on the accused to establish a defence.	Type 3
<i>Agricultural and Veterinary Products (Control of Use) Act 2002</i> s 34: Offences by Body Corporate.	Each member of the governing body, and the manger, of the Body Corporate.	Yes, if a corporate breach is established.	N/A	The person could not, by the exercise of due diligence, have prevented the commission of the offence.	N/A	Onus on the accused to establish a defence.	Type 1

South Australian laws imposing personal liability on directors and officers

Provision	Who is liable?	Is the liability automatic?	Defence of 'Due Diligence'	Defence of 'Unable to Influence'	Additional Defences	Onus of Proof	Type of Provision
<p>Animal Welfare Act 1985 s 38(1):</p> <p>Offences by Bodies Corporate – offences attracting member liability for contravention of the following provisions:</p> <p>(a) section 13(1) or (2) (Ill treatment of animals);</p> <p>(b) section 14(1), (2) or (4) (Organised animal fights); or</p> <p>(c) section 40 (Vicarious liability of employers in certain circumstances).</p>	Each member of the governing body of the Body Corporate.	Yes, if a corporate breach is established.	N/A	The person could not, by the exercise of due diligence, have prevented the commission of the offence.	N/A	Onus on the accused to establish a defence.	Type 1
<p>s 38(2):</p> <p>Offences by Bodies Corporate – offences attracting member liability for contravention of any other provision.</p>	<p>Each member of the governing body of the Body Corporate, if the prosecution proves that:</p> <p>(a) the member knew, or ought reasonably to have known, that there was a significant risk that such an offence would be committed;</p> <p>(b) the member was in a position to influence the conduct of the Body Corporate in relation to the commission of such an offence; and</p> <p>(c) the member failed to exercise due diligence to prevent the commission of the offence.</p>	No, the onus is on the prosecution to prove the required elements.	N/A	N/A	N/A	N/A	Type 2

South Australian laws imposing personal liability on directors and officers

Provision	Who is liable?	Is the liability automatic?	Defence of 'Due Diligence'	Defence of 'Unable to Influence'	Additional Defences	Onus of Proof	Type of Provision
Aquaculture Act 2001 s 88(1): Liability of Directors in relation to an offence of section 18 (Application of Part) or 58 (Power to require or carry out work).	Directors.	Yes, if a corporate breach is established.	N/A	The person could not, by the exercise of reasonable diligence, have prevented the commission of the offence.	N/A	Onus on the accused to establish a defence.	Type 1
s 88(1A): Liability of Directors in relation to an offence of section 16 (Offence to contravene mandatory provisions of policy) or 52 (Licence conditions).	Directors, if the prosecution proves that: (a) the Director knew, or ought reasonably to have known, that there was a significant risk that such an offence would be committed; (b) the Director was in a position to influence the conduct of the Corporation in relation to the commission of such an offence; and (c) the Director failed to exercise due diligence to prevent the commission of the offence.	No, the onus is on the prosecution to prove the required elements.	N/A	N/A	N/A	N/A	Type 2

South Australian laws imposing personal liability on directors and officers

Provision	Who is liable?	Is the liability automatic?	Defence of 'Due Diligence'	Defence of 'Unable to Influence'	Additional Defences	Onus of Proof	Type of Provision
<p><i>Associations Incorporations Act 1985</i></p> <p>s 49AF: Frauds by officers.</p>	<p>A person who, while an officer of an incorporated association:</p> <p>(a) by false pretences or by means of any other fraud, induces a person to give credit to the association or to a related Body Corporate;</p> <p>(b) with intent to defraud the association or a related Body Corporate, or members or creditors of the association or a related Body Corporate, makes or purports to make, or causes to be made or to be purported to be made, any gift or transfer of, or charge on, or causes or connives at the levying of any execution against, property of the association or of a related Body Corporate; or</p> <p>(c) with intent to defraud the association or a related Body Corporate, or members or creditors of the association or of a related Body Corporate, conceals or removes any part of the property of the association or of a related Body Corporate after, or within two months before, the date of any unsatisfied judgement or order for payment of money obtained against the association or a related Body Corporate, is guilty of an offence.</p>	No, the onus is on the prosecution to prove the required elements.	N/A	N/A	N/A	N/A	Type 3

South Australian laws imposing personal liability on directors and officers

Provision	Who is liable?	Is the liability automatic?	Defence of 'Due Diligence'	Defence of 'Unable to Influence'	Additional Defences	Onus of Proof	Type of Provision
<p>Authorised Betting Operations Act 2000 s 84(1):</p> <p>Offences by Bodies Corporate for contravention of the following provisions:</p> <p>(a) section 18 (Other transactions under which outsiders may acquire control or influence);</p> <p>(b) section 20(1) (Approval of designated persons);</p> <p>(c) section 27 (Accounts and audit);</p> <p>(d) section 32 (Evasion of duty);</p> <p>(e) section 33 (Directions to licensee);</p> <p>(f) section 40 (Evasion of duty);</p> <p>(g) section 61 (Prohibition of certain information as to racing or betting);</p> <p>(h) section 62E (Integrity agreements and contribution agreements);</p> <p>(i) section 69 (Compliance notice); or</p> <p>(j) section 72 (Disciplinary action).</p>	Each member of the governing body, and the manager, of the Body Corporate.	Yes, if a corporate breach is established.	N/A	The person could not, by the exercise of reasonable diligence, have prevented the commission of the offence.	N/A	Onus on the accused to establish a defence.	Type 1

South Australian laws imposing personal liability on directors and officers

Provision	Who is liable?	Is the liability automatic?	Defence of 'Due Diligence'	Defence of 'Unable to Influence'	Additional Defences	Onus of Proof	Type of Provision
<p>s 84(2): Offences by Bodies Corporate. This provision does not apply to contraventions of section 24(3) (Investigative powers) or section 66 (Power to enter and inspect).</p>	<p>The manager of the Body Corporate and each member of the governing body of the Body Corporate, if the prosecution proves that:</p> <ul style="list-style-type: none"> (a) the manager or member (as the case may be) knew, or ought reasonably to have known, that there was a significant risk that such an offence would be committed; (b) the manager or member (as the case may be) was in a position to influence the conduct of the Body Corporate in relation to the commission of such an offence; and (c) the manager or member (as the case may be) failed to exercise due diligence to prevent the commission of the offence. 	No, the onus is on the prosecution to prove the required elements.	N/A	N/A	N/A	N/A	Type 2
<p>Burial and Cremation Act 2013 s 64(1): Offences by Body Corporate – offences attracting member liability for contravention of section 9 (Offences relating to cremation).</p>	Each member of the governing body of the Body Corporate.	Yes, if a corporate breach is established.	N/A	The person could not, by the exercise of due diligence, have prevented the commission of the offence.	N/A	Onus on the accused to establish a defence.	Type 1

South Australian laws imposing personal liability on directors and officers

Provision	Who is liable?	Is the liability automatic?	Defence of 'Due Diligence'	Defence of 'Unable to Influence'	Additional Defences	Onus of Proof	Type of Provision
s 64(2): Offences by Body Corporate – offences attracting member liability for contravention of any other provision.	Each member of the governing body of the Body Corporate, if the prosecution proves that: <ol style="list-style-type: none"> (a) the member knew, or ought reasonably to have known, that there was a significant risk that such an offence would be committed; (b) the member was in a position to influence the conduct of the Body Corporate in relation to the commission of such an offence; and (c) the member failed to exercise due diligence to prevent the commission of the offence. 	No, the onus is on the prosecution to prove the required elements.	N/A	N/A	N/A	N/A	Type 2
Classification (Publications, Films and Computer Games) Act 1995 s 86: Proceedings against Body Corporate for contravention of the following provisions: <ol style="list-style-type: none"> (a) section 34(1) (Private exhibition of certain films in presence of minor); (b) section 42(1) (Sale or delivery of certain films to minors); (c) section 51(1) (Sale of certain publications to minors); (d) section 59 (Private demonstration of RC and R 18+ computer games in presence of minor); or (e) section 62(1) (Sale or delivery of certain computer games to minors). 	Director.	Yes, if a corporate breach is established.	N/A	The person could not, by the exercise of due diligence, have prevented the commission of the offence.	N/A	Onus on the accused to establish a defence.	Type 1

South Australian laws imposing personal liability on directors and officers

Provision	Who is liable?	Is the liability automatic?	Defence of 'Due Diligence'	Defence of 'Unable to Influence'	Additional Defences	Onus of Proof	Type of Provision
<p><i>Collections for Charitable Purposes Act 1939</i></p> <p>s 15:</p> <p>Accounts, statements and audit.</p>	<p>Each member of the governing body of the Body Corporate if the prosecution proves that:</p> <p>(a) the member knew, or ought reasonably to have known, that there was a significant risk that such an offence would be committed; and</p> <p>(b) the member was in a position to influence the conduct of the Body Corporate in relation to the commission of such an offence; and</p> <p>(c) the member failed to exercise due diligence to prevent the commission of the offence.</p>	<p>No, the onus is on the prosecution to prove the required elements.</p>	N/A	N/A	N/A	N/A	Type 2

South Australian laws imposing personal liability on directors and officers

Provision	Who is liable?	Is the liability automatic?	Defence of 'Due Diligence'	Defence of 'Unable to Influence'	Additional Defences	Onus of Proof	Type of Provision
Co-operatives National Law (South Australia) Act 2013 Schedule, s 119: Carrying on business with too few members.	A person who is a director of a co-operative who knowingly allows the co-operative to continue to carry on business with fewer than the minimum number of members allowed.	No, the onus is on the prosecution to prove the required elements.	N/A	N/A	N/A	N/A	Type 3
Schedule, s 158: Failure to cancel membership – offence by director.	If the board of a co-operative fails to cancel the membership of a member as required by this Part, a director of the co-operative who did not use all due diligence to prevent the failure commits an offence.	No, the onus is on the prosecution to prove the required elements.	N/A	N/A	N/A	N/A	Type 3
Schedule, s 191: Responsibility of secretary.	The secretary of a co-operative.	Yes, if a corporate breach is established.	The person took all reasonable steps to ensure that the co-operative complied with the section.	N/A	N/A	Onus on the accused to establish a defence.	Type 3

South Australian laws imposing personal liability on directors and officers

Provision	Who is liable?	Is the liability automatic?	Defence of 'Due Diligence'	Defence of 'Unable to Influence'	Additional Defences	Onus of Proof	Type of Provision
Schedule, s 201: Application of Corporations Act – offences by officers of co-operatives.	The provisions imposing personal liability on directors and officers under Part 5.8 of the Corporations Act 2001 (Cth) (Offences (relating to external administration)) apply to officers of co-operatives.	See Part 5.8 of the	<i>Corporations Act 2001</i> (Cth).				Type 3
Schedule, s 223: Name to appear on seals, publications and business documents.	A director of a co-operative if the director knowingly authorises or permits a contravention of this section.	No, the onus is on the prosecution to prove the required elements.	N/A	N/A	N/A	N/A	Type 3
Schedule, s 243: Registration of special resolution.	An officer of the co-operative who knowingly fails to file the required copies under this section.	No, the onus is on the prosecution to prove the required elements.	N/A	N/A	N/A	N/A	Type 3

South Australian laws imposing personal liability on directors and officers

Provision	Who is liable?	Is the liability automatic?	Defence of 'Due Diligence'	Defence of 'Unable to Influence'	Additional Defences	Onus of Proof	Type of Provision
Schedule, s 328: Contravention by directors of provisions of this Part.	<p>A director of a co-operative, if they contravene the Act and the contravention is dishonest.</p> <p>A director contravenes the Act if they fail to take all reasonable steps to comply with or to secure compliance with:</p> <ul style="list-style-type: none"> (a) section 272 (Small co-operative – direction by Registrar (cf Corporations Act section 294)); (b) section 284(1) or (2) (Annual financial reporting to members); (c) section 289 (Lodgment of annual reports by large co-operatives with Registrar (cf Corporations Act section 319)); (d) section 290 (Lodgment of half-year reports with Registrar (cf Corporations Act section 320)); (e) section 291 (Registrar's power to require lodgment (cf Corporations Act section 321)); (f) section 292 (Relodgment if financial statements or directors' reports amended after lodgment (cf Corporations Act section 322)); (g) section 293 (Lodgment by small co-operatives of annual returns with Registrar); 	No, the onus is on the prosecution to prove the required elements.	N/A	N/A	N/A	N/A	Type 3

South Australian laws imposing personal liability on directors and officers

Provision	Who is liable?	Is the liability automatic?	Defence of 'Due Diligence'	Defence of 'Unable to Influence'	Additional Defences	Onus of Proof	Type of Provision
	<p>(h) section 315(1) of the Corporations Act (Deadline for reporting to members) as applying under section 285(2) of this Co-operatives National Law (Deadline for reporting to members); or</p> <p>(i) section 318 of the Corporations Act (Additional reporting by debenture issuers) as applying under section 288 of this Co-operatives National Law (Application of Corporations Act – additional reporting by debenture issuers).</p>						
Schedule, s 359: Acquisition and disposal of assets.	Each person who is a member of the board of the co-operative if the co-operative contravenes this section.	No, the onus is on the prosecution to prove the required elements.	The person was in a position to influence the conduct of the co-operative in relation to the offence, the person used all due diligence to prevent the commission of the offence.	N/A	N/A	Onus on the accused to establish a defence.	Type 3
Schedule, s 401(8): Transfer of engagements by direction of Registrar.	An officer of a co-operative who fails to take all reasonable steps to secure compliance by the co-operative with a direction given or by a wilful act or omission causes the failure by the co-operative to comply with a direction given.	No, the onus is on the prosecution to prove the required elements.	N/A	N/A	N/A	N/A	Type 3

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Provision	Who is liable?	Is the liability automatic?	Defence of 'Due Diligence'	Defence of 'Unable to Influence'	Additional Defences	Onus of Proof	Type of Provision
Schedule, s 422: Directors to arrange for reports.	Each director of the co-operative.	Yes, if a corporate breach is established.	N/A	N/A	N/A	N/A	Type 3
Schedule, s 429: Contravention of this Division – offence by co-operative.	If a provision of this Division 2 of Part 4.4 (Explanatory statements) is contravened, the co-operative concerned and any other person involved in the contravention commits an offence.	No, the onus is on the prosecution to prove the required elements.	N/A	N/A	The contravention was because of the failure of a person (other than the defendant), who is a director of the co-operative or a trustee for debenture holders of the co-operative, to supply for the explanatory statement particulars of the person's interests.	Onus on the accused to establish a defence.	Type 3
Schedule, s 469: Name and place of origin to appear on business and other documents.	A director of a participating co-operative, if they knowingly authorise or permit a contravention.	No, the onus is on the prosecution to prove the required elements.	N/A	N/A	N/A	N/A	Type 3

South Australian laws imposing personal liability on directors and officers

Provision	Who is liable?	Is the liability automatic?	Defence of 'Due Diligence'	Defence of 'Unable to Influence'	Additional Defences	Onus of Proof	Type of Provision
Schedule, s 484: Falsification of books.	An officer, former officer, employee, former employee, member or former member of a co-operative who engages in conduct that results in the concealment, destruction, mutilation or falsification of any securities, books or records.	No, the onus is on the prosecution to prove the required elements.	N/A	N/A	N/A	N/A	Type 3
Schedule, s 546: Enforcement orders after contravention of undertaking.	Each officer of the co-operative or other Corporation if the officer knowingly authorised or permitted the breach.	No, the onus is on the prosecution to prove the required elements.	N/A	N/A	N/A	N/A	Type 3
<i>Dangerous Substances Act 1979</i> s 41: Offences by Bodies Corporate.	Each member of the governing body and the manager of the Body Corporate.	Yes, if a corporate breach is established.	The person exercised all due diligence to prevent the commission of that offence.	N/A	The person did not know and could not reasonably be expected to have known of the commission of that offence.	Onus on the accused to establish a defence.	Type 3

South Australian laws imposing personal liability on directors and officers

Provision	Who is liable?	Is the liability automatic?	Defence of 'Due Diligence'	Defence of 'Unable to Influence'	Additional Defences	Onus of Proof	Type of Provision
<p>Development Act 1993 s 105(3):</p> <p>General provisions relating to offences – offences attracting director liability.</p> <p>Applies to offences against the following provisions:</p> <p>(a) section 44 (General offences);</p> <p>(b) section 45 (Offences relating specifically to building work);</p> <p>(c) section 48 (Governor to give decision on development);</p> <p>(d) section 49 (Crown development and public infrastructure);</p> <p>(e) section 49A (Electricity infrastructure development);</p> <p>(f) section 55 (Action if development not completed);</p> <p>(g) section 57A (Land management agreements – development applications);</p> <p>(h) section 69(1) (Emergency orders);</p> <p>(i) section 71(14) (Fire safety); or</p> <p>(j) section 106A(8) (Make good orders).</p>	Each director and the chief executive officer of the Body Corporate.	Yes, if a corporate breach is established.	N/A	The person could not, by the exercise of due diligence, have prevented the commission of the offence.	N/A	Onus on the accused to establish a defence.	Type 1

South Australian laws imposing personal liability on directors and officers

Provision	Who is liable?	Is the liability automatic?	Defence of 'Due Diligence'	Defence of 'Unable to Influence'	Additional Defences	Onus of Proof	Type of Provision
<p>s 105(3a): General provisions relating to offences – offences attracting director liability for contravention of any other provision.</p>	<p>Each director and the chief executive officer of the Body Corporate, if the prosecution proves that:</p> <ul style="list-style-type: none"> (a) the director or chief executive officer (as the case may be) knew, or ought reasonably to have known, that there was a significant risk that such an offence would be committed; (b) the director or chief executive officer (as the case may be) was in a position to influence the conduct of the Body Corporate in relation to the commission of such an offence; and (c) the director or chief executive officer (as the case may be) failed to exercise due diligence to prevent the commission of the offence. 	No, the onus is on the prosecution to prove the required elements.	N/A	N/A	N/A	N/A	Type 2
<p><i>Education and Early Childhood Services (Registration and Standards) Act 2011</i> s 83: Offences by Bodies Corporate.</p>	Any person with management or control of the Body Corporate who failed to exercise due diligence to prevent the contravention.	No, the onus is on the prosecution to prove the required elements.	N/A	N/A	N/A	N/A	Type 3
<p><i>Electricity Act 1996</i> s 93: Offences by Bodies Corporate.</p>	Each director of the Body Corporate.	Yes, if a corporate breach is established.	N/A	The person could not, by the exercise of due diligence, have prevented the commission of the offence.	N/A	Onus on the accused to establish a defence.	Type 3

South Australian laws imposing personal liability on directors and officers

Provision	Who is liable?	Is the liability automatic?	Defence of 'Due Diligence'	Defence of 'Unable to Influence'	Additional Defences	Onus of Proof	Type of Provision
<i>Energy Products (Safety and Efficiency) Act 2000</i> s 8(6): Prohibition of sale or use of unsafe energy products.	Each director of the Body Corporate, if the prosecution proves that: (a) the director knew, or ought reasonably to have known, that there was a significant risk that such an offence would be committed; (b) the director was in a position to influence the conduct of the Body Corporate in relation to the commission of such an offence; and (c) the director failed to exercise due diligence to prevent the commission of the offence.	No, the onus is on the prosecution to prove the required elements.	N/A	N/A	N/A	N/A	Type 2
<i>Environment Protection Act 1993</i> s 129(1): Liability of officers of Body Corporate.	A person who is an officer of the Body Corporate.	Yes, if a corporate breach is established.	The alleged contravention did not result from any failure on the defendant's part to take all reasonable and practicable measures to prevent the contravention or contraventions of the same or a similar nature.	N/A	N/A	Onus on the accused to establish a defence.	Type 3
s 129(3): Liability of officers of Body Corporate.	An officer of the Body Corporate who knowingly promoted or acquiesced in the contravention.	No, the onus is on the prosecution to prove the required elements.	N/A	N/A	N/A	N/A	Type 3

South Australian laws imposing personal liability on directors and officers

Provision	Who is liable?	Is the liability automatic?	Defence of 'Due Diligence'	Defence of 'Unable to Influence'	Additional Defences	Onus of Proof	Type of Provision
Explosives Act 1936 s 51A: Offences by Bodies Corporate.	Every member of the governing body and the manager of the Body Corporate.	Yes, if a corporate breach is established.	The person exercised all due diligence to prevent the commission of that offence.	N/A	The person did not know and could not reasonably be expected to have known of the commission of that offence.	Onus on the accused to establish a defence.	Type 3
Fair Trading Act 1987 s 90(3): Vicarious liability – offences attracting director liability for contravention of section 28A (Minister may require information) or 37 (Powers of District Court).	Each director of the Body Corporate, if the prosecution proves that: <ul style="list-style-type: none"> (a) the director knew, or ought reasonably to have known, that there was a significant risk that such an offence would be committed; (b) the director was in a position to influence the conduct of the Body Corporate in relation to the commission of such an offence; and (c) the director failed to exercise due diligence to prevent the commission of the offence. 	No, the onus is on the prosecution to prove the required elements.	N/A	N/A	N/A	N/A	Type 2
Fair Work Act 1994 s 236A: Offences by Body Corporate.	A member of the governing body of the Body Corporate that intentionally allowed the Body Corporate to engage in the conduct comprising the offence.	No, the onus is on the prosecution to prove the required elements.	N/A	N/A	N/A	N/A	Type 3

South Australian laws imposing personal liability on directors and officers

Provision	Who is liable?	Is the liability automatic?	Defence of 'Due Diligence'	Defence of 'Unable to Influence'	Additional Defences	Onus of Proof	Type of Provision
<i>Firearms Act 2015</i> s 72: Offences by companies.	Each Director of the company and the company's principal nominee (if any). A Director of a company includes a person occupying or acting in the position of a Director or member of the governing body of the company, by whatever name called and whether or not validly appointed to occupy or duly authorised to act in the position, and includes any person in accordance with whose directions or instructions the Directors or members of the governing body are accustomed to act.	Yes, if a corporate breach is established.	N/A	The person could not, by the exercise of due diligence, have prevented the commission of the offence.	N/A	Onus on the accused to establish a defence.	Type 1
<i>Fire and Emergency Services Act 2005</i> s 138: Offences by Body Corporate.	Each director and the manager of the Body Corporate, if the prosecution proves that: (a) the director or manager (as the case may be) knew, or ought reasonably to have known, that there was a significant risk that such an offence would be committed; (b) the director or manager (as the case may be) was in a position to influence the conduct of the Body Corporate in relation to the commission of such an offence; and (c) the director or manager (as the case may be) failed to exercise due diligence to prevent the commission of the offence.	No, the onus is on the prosecution to prove the required elements.	N/A	N/A	N/A	N/A	Type 2

South Australian laws imposing personal liability on directors and officers

Provision	Who is liable?	Is the liability automatic?	Defence of 'Due Diligence'	Defence of 'Unable to Influence'	Additional Defences	Onus of Proof	Type of Provision
<p>Fisheries Management Act 2007 s 120(1):</p> <p>Offences committed by Bodies Corporate or agents, or involving registered boats liability – offences.</p> <p>Applies to offences against the following provisions:</p> <p>(a) section 52 (Obligation of commercial fishers to hold licence or permit);</p> <p>(b) section 53 (Obligation for boats and devices used in commercial fishing to be registered);</p> <p>(c) section 72 (Sale, purchase or possession of aquatic resources without authority prohibited);</p> <p>(d) section 74 (Unauthorised trafficking in fish of priority species prohibited);</p> <p>(e) section 78 (Unauthorised activities relating to exotic organisms or noxious species prohibited);</p> <p>(f) section 102 (Provisions relating to orders under this Division); or</p> <p>(g) section 71 (Taking, injuring etc aquatic mammals and protected species prohibited) if the offence involves an aquatic mammal.</p>	Each director of the Body Corporate.	Yes, if a corporate breach is established.	N/A	The person could not, by the exercise of due diligence, have prevented the commission of the offence.	N/A	Onus on the accused to establish a defence.	Type 1

South Australian laws imposing personal liability on directors and officers

Provision	Who is liable?	Is the liability automatic?	Defence of 'Due Diligence'	Defence of 'Unable to Influence'	Additional Defences	Onus of Proof	Type of Provision
<p>s 120(2): Offences committed by Bodies Corporate or agents, or involving registered boats – offences attracting director liability for contravention of any other provision.</p> <p>This provision does not apply to contraventions of the following sections:</p> <p>(a) section 59 (Obligation to carry authority and identification while engaging in fishing activities);</p> <p>(b) section 67 (Misuse of authorities);</p> <p>(c) section 73 (Possession of prescribed quantity of aquatic resource in prescribed circumstances);</p> <p>(d) section 75 (Interference with lawful fishing activities prohibited);</p> <p>(e) section 76 (Entering etc aquatic reserve, or engaging in fishing activity in aquatic reserve, without authorisation prohibited);</p> <p>(f) section 77 (Disturbance of water beds, or removal or interference with animals or plants, in aquatic reserve without authorisation prohibited);</p>	<p>Each director of the Body Corporate, if the prosecution proves that:</p> <p>(a) the director knew, or ought reasonably to have known, that there was a significant risk that such an offence would be committed;</p> <p>(b) the director was in a position to influence the conduct of the Body Corporate in relation to the commission of such an offence; and</p> <p>(c) the director failed to exercise due diligence to prevent the commission of the offence.</p>	<p>No, the onus is on the prosecution to prove the required elements.</p>	N/A	N/A	N/A	N/A	Type 2

South Australian laws imposing personal liability on directors and officers

Provision	Who is liable?	Is the liability automatic?	Defence of 'Due Diligence'	Defence of 'Unable to Influence'	Additional Defences	Onus of Proof	Type of Provision
(g) section 84 (Power of fisheries officer to arrest persons without warrant);							
(h) section 88 (Placement of scientific observer on registered boat); or							
(i) section 91 (Offence to hinder etc authorised persons).							
Food Act 2001 s 98: Offences by Bodies Corporate.	Each person who is a member of the governing body of the Body Corporate or who is concerned in the management of the Body Corporate if the person knowingly authorised or permitted the contravention.	No, the onus is on the prosecution to prove the required elements.	N/A	N/A	N/A	N/A	Type 3
Gaming Machines Act 1992 s 85(1): Vicarious liability – offences attracting personal liability for any offence for which the maximum penalty includes a term of imprisonment of 2 or more years.	Each person occupying a position of authority in the Body Corporate.	Yes, if a corporate breach is established.	N/A	The person could not, by the exercise of due diligence, have prevented the commission of the offence.	N/A	Onus on the accused to establish a defence.	Type 1

South Australian laws imposing personal liability on directors and officers

Provision	Who is liable?	Is the liability automatic?	Defence of 'Due Diligence'	Defence of 'Unable to Influence'	Additional Defences	Onus of Proof	Type of Provision
<p>s 85(1a): Vicarious liability – offences attracting personal liability for contravention of any other provision. This provision does not apply to contraventions of the following sections:</p> <p>(a) section 6 (Procedural powers of the Commissioner); (b) section 50A (Approved gaming machine managers and employees must carry identification); (c) section 64 (Sealing of gaming machines); (d) section 65 (Removal of gaming tokens); (e) section 71 (Powers of authorised officers); or (f) section 80 (Licensees to disclose gifts etc).</p>	<p>Each person occupying a position of authority in the Body Corporate, if the prosecution proves that:</p> <p>(a) the person knew, or ought reasonably to have known, that there was a significant risk that such an offence would be committed;</p> <p>(b) the person was in a position to influence the conduct of the Body Corporate in relation to the commission of such an offence; and</p> <p>(c) the person failed to exercise due diligence to prevent the commission of the offence.</p>	No, the onus is on the prosecution to prove the required elements.	N/A	N/A	N/A	N/A	Type 2

South Australian laws imposing personal liability on directors and officers

Provision	Who is liable?	Is the liability automatic?	Defence of 'Due Diligence'	Defence of 'Unable to Influence'	Additional Defences	Onus of Proof	Type of Provision
<p>Gas Act 1997 s 89(1): Offences by Bodies Corporate – offences attracting director liability. Applies to offences against the following provisions:</p> <ul style="list-style-type: none"> (a) section 19 (Requirement for licence); (b) section 27 (Offence to contravene licence conditions); (c) section 37 (Temporary gas rationing); (d) section 37A (Minister's power to require information or documents); or (e) section 55 (Responsibility of owner or operator of infrastructure or installation). 	Each director of the Body Corporate.	Yes, if a corporate breach is established.	N/A	The person could not, by the exercise of due diligence, have prevented the commission of the offence.	N/A	Onus on the accused to establish a defence.	Type 1
<p>s 89(2): Offences by Bodies Corporate – offences attracting director liability for contravention of any other provision. This provision does not apply to contraventions of the following sections:</p> <ul style="list-style-type: none"> (a) section 10 (Technical Regulator's power to require information); (b) section 34 (Standard terms and conditions for retailing of gas); 	Each person occupying a position of authority in the Body Corporate, if the prosecution proves that: <ul style="list-style-type: none"> (a) the person knew, or ought reasonably to have known, that there was a significant risk that such an offence would be committed; (b) the person was in a position to influence the conduct of the Body Corporate in relation to the commission of such an offence; and (c) the person failed to exercise due diligence to prevent the commission of the offence. 	No, the onus is on the prosecution to prove the required elements.	N/A	N/A	N/A	N/A	Type 2

South Australian laws imposing personal liability on directors and officers

Provision	Who is liable?	Is the liability automatic?	Defence of 'Due Diligence'	Defence of 'Unable to Influence'	Additional Defences	Onus of Proof	Type of Provision
(c)	section 34D (Deleted by Statutes Amendment (National Energy Retail Law Implementation) Act 2012);						
(d)	section 40 (Appointment of operator);						
(e)	section 44 (Gas officer's identity card);						
(f)	section 56 (Certain gas fitting work);						
(g)	section 57 (Power to require rectification etc in relation to infrastructure or installations);						
(h)	section 57A (Prohibition of sale or use of unsafe components for infrastructure or installations);						
(i)	section 58 (Reporting of accidents);						
(j)	section 68 (Disconnection of gas supply);						
(k)	section 69 (Power to make infrastructure or installation safe);						
(l)	section 70 (Power to require information or documents);						
(m)	section 78 (Obligation to comply with conditions of exemption);						
(n)	section 81 (Unlawful interference with distribution system or gas installation);						

South Australian laws imposing personal liability on directors and officers

Provision	Who is liable?	Is the liability automatic?	Defence of 'Due Diligence'	Defence of 'Unable to Influence'	Additional Defences	Onus of Proof	Type of Provision
(o) section 82 (Unlawful abstraction or diversion of gas); (p) section 83 (Notice of work that may affect gas infrastructure); (q) section 85 (Obstruction); or (r) section 86 (False or misleading information).							
<i>Genetically Modified Crops Management Act 2004</i> s 22: Offences by Bodies Corporate.	Each member of the governing body, and the manager, of the Body Corporate.	Yes, if a corporate breach is established.	N/A	The person could not, by the exercise of due diligence, have prevented the commission of the offence.	N/A	Onus on the accused to establish a defence.	Type 1
<i>Health Practitioner Regulation National Law (South Australia) Act 2010</i> s 72(1): Vicarious liability for offences – offences attracting personal liability. Applies to offences against the following provisions: (a) section 50(1) (Registration of pharmacy services providers); (b) section 51 (Restrictions relating to provision of pharmacy services); (c) section 55 (Contravention of prohibition order); or (d) section 67 (Use of word "pharmacy").	Each person occupying a position of authority in the Body Corporate.	Yes, if a corporate breach is established.	N/A	The person could not, by the exercise of due diligence, have prevented the commission of the offence.	N/A	Onus on the accused to establish a defence.	Type 1

South Australian laws imposing personal liability on directors and officers

Provision	Who is liable?	Is the liability automatic?	Defence of 'Due Diligence'	Defence of 'Unable to Influence'	Additional Defences	Onus of Proof	Type of Provision
<p>s 72(2): Vicarious liability for offences – offences attracting personal liability for contravention of any other provision. This provision does not apply to contraventions of the following sections:</p> <ul style="list-style-type: none"> (a) section 42 (Restriction on number of pharmacies); (b) section 44 (Certain other businesses not to be carried on at pharmacy); (c) section 45 (Registration of premises as pharmacy depot); (d) section 47 (Notices); (e) section 50(4) (Registration of pharmacy services providers); (f) section 58 (Powers of Authority in relation to witnesses etc); (g) section 64 (Authorised officers); (h) section 65 (False or misleading statement); or (i) section 69 (Information relating to claims). 	<p>Each person occupying a position of authority in the Body Corporate, if the prosecution proves that:</p> <ul style="list-style-type: none"> (a) the person knew, or ought reasonably to have known, that there was a significant risk that such an offence would be committed; (b) the person was in a position to influence the conduct of the Body Corporate in relation to the commission of such an offence; and (c) the person failed to exercise due diligence to prevent the commission of the offence. 	No, the onus is on the prosecution to prove the required elements.	N/A	N/A	N/A	N/A	Type 2

South Australian laws imposing personal liability on directors and officers

Provision	Who is liable?	Is the liability automatic?	Defence of 'Due Diligence'	Defence of 'Unable to Influence'	Additional Defences	Onus of Proof	Type of Provision
<p>Heavy Vehicle National Law (South Australia) Act 2013</p> <p>Schedule, s 636(1): Liability of executive officers of Corporation.</p> <p>The Act has not yet come into force, and will commence on a date to be fixed by proclamation, see section 2.</p>	<p>If a Corporation commits an offence against a provision of the Act specified in column 2 (Provision specified for the purposes of section 636(1)) of Schedule 4 (Provisions specified for liability of executive officers for offences by Corporations), each executive officer of the Corporation who knowingly authorised or permitted the conduct constituting the offence also commits an offence against the provision.</p>	<p>No, knowledge element must be proven.</p>	<p>The person exercised reasonable diligence to ensure the Corporation complied with the provision.</p>	<p>The person was not in a position to influence the conduct of the Corporation in relation to the offence.</p>	<p>N/A</p>	<p>Onus on the prosecution to prove that the officer knew or ought to have reasonably known.</p>	<p>Type 3</p>
<p>Schedule, s 636(2): Liability of executive officers of Corporation.</p> <p>The Act has not yet come into force, and will commence on a date to be fixed by proclamation, see section 2.</p>	<p>If a Corporation commits an offence against a provision of the Act specified in column 3 (Provision specified for the purposes of section 636(2)) of Schedule 4 (Provisions specified for liability of executive officers for offences by Corporations), each executive officer of the Corporation who knew or ought reasonably to have known:</p> <p>(a) of the conduct constituting the offence; or</p> <p>(b) that there was a substantial risk that the offence would be committed;</p> <p>also commits an offence against the provision.</p>	<p>No, knowledge element must be proven.</p>	<p>The person exercised reasonable diligence to ensure the Corporation complied with the provision.</p>	<p>The person was not in a position to influence the conduct of the Corporation in relation to the offence.</p>	<p>N/A</p>	<p>Onus on the prosecution.</p>	<p>Type 3</p>

South Australian laws imposing personal liability on directors and officers

Provision	Who is liable?	Is the liability automatic?	Defence of 'Due Diligence'	Defence of 'Unable to Influence'	Additional Defences	Onus of Proof	Type of Provision
<p>Heritage Places Act 1993 s 42(2): General provisions relating to offences – offences attracting personal liability. Applies to offences against the following provisions:</p> <ul style="list-style-type: none"> (a) section 30 (Stop orders); (b) section 36(1) (Damage or neglect); (c) section 38 (No development orders); (d) section 38A (ERD Court orders); or (e) section 39A (Protection orders). 	Each director and the chief executive officer of the Body Corporate.	Yes, if a corporate breach is established.	N/A	The person could not, by the exercise of due diligence, have prevented the commission of the offence.	N/A	Onus on the accused to establish a defence.	Type 1
<p>s 42(2a): General provisions relating to offences – offences attracting personal liability for contravention of any other provision. This provision does not apply to contraventions of the following sections:</p> <ul style="list-style-type: none"> (a) section 27(2) (Protection of archaeological artefacts); (b) section 29A (Related matters – objects); or (c) section 41 (Obstruction). 	Each director and the chief executive officer of the Body Corporate, if the prosecution proves that: <ul style="list-style-type: none"> (a) the director or the chief executive officer (as the case may be) knew, or ought reasonably to have known, that there was a significant risk that such an offence would be committed; (b) the director or the chief executive officer (as the case may be) was in a position to influence the conduct of the Body Corporate in relation to the commission of such an offence; and (c) the director or the chief executive officer (as the case may be) failed to exercise due diligence to prevent the commission of the offence. 	No, the onus is on the prosecution to prove the required elements.	N/A	N/A	N/A	N/A	Type 2

South Australian laws imposing personal liability on directors and officers

Provision	Who is liable?	Is the liability automatic?	Defence of 'Due Diligence'	Defence of 'Unable to Influence'	Additional Defences	Onus of Proof	Type of Provision
<p>Housing Improvement Act 2016 s 49: Offences by Bodies Corporate.</p>	Each director and the manager of the Body Corporate.	Yes, if a corporate breach is established.	N/A	The person could not, by the exercise of due diligence, have prevented the commission of the offence.	N/A	Onus on the accused to establish a defence.	Type 1
<p>Hydroponics Industry Control Act 2009 s 31(1): Offences by Bodies Corporate – offences attracting personal liability. Applies to offences against the following provisions: (a) section 10 (Requirement for licence); or (b) section 11 (Hydroponic equipment dealer's licence).</p>	Each director of the Body Corporate.	Yes, if a corporate breach is established.	N/A	The person could not, by the exercise of due diligence, have prevented the commission of the offence.	N/A	Onus on the accused to establish a defence.	Type 1

South Australian laws imposing personal liability on directors and officers

Provision	Who is liable?	Is the liability automatic?	Defence of 'Due Diligence'	Defence of 'Unable to Influence'	Additional Defences	Onus of Proof	Type of Provision
<p>s 31(2): Offences by Bodies Corporate – offences attracting personal liability for contravention of any other provision. This provision does not apply to contraventions of the following sections:</p> <p>(a) section 14 (Change of information relating to licence);</p> <p>(b) section 17 (Commissioner may approve hydroponics industry employees);</p> <p>(c) section 21 (Purchaser must produce identification);</p> <p>(d) section 22 (Identification cards);</p> <p>(e) section 23 (Records of prescribed transactions);</p> <p>(f) section 24 (Staffing records);</p> <p>(g) section 26 (Powers of entry and inspection);</p> <p>(h) section 27 (Commissioner may require information from wholesalers); or</p> <p>(i) section 28 (False or misleading information).</p>	<p>Each director of the Body Corporate, if the prosecution proves that:</p> <p>(a) the director knew, or ought reasonably to have known, that there was a significant risk that such an offence would be committed;</p> <p>(b) the director was in a position to influence the conduct of the Body Corporate in relation to the commission of such an offence; and</p> <p>(c) the director failed to exercise due diligence to prevent the commission of the offence.</p>	No, the onus is on the prosecution to prove the required elements.	N/A	N/A	N/A	N/A	Type 2

South Australian laws imposing personal liability on directors and officers

Provision	Who is liable?	Is the liability automatic?	Defence of 'Due Diligence'	Defence of 'Unable to Influence'	Additional Defences	Onus of Proof	Type of Provision
Liquor Licensing Act 1997 s 134: Vicarious liability.	Each person occupying a position of authority in a trust or corporate entity.	Yes, if a corporate breach is established.	N/A	The person could not, by the exercise of reasonable care, have prevented the misconduct.	N/A	Onus on the accused to establish a defence.	Type 1
Livestock Act 1997 s 80(1): Offences by Bodies Corporate – offences attracting director liability. Applies to offences against the following provisions: (a) section 20 (Requirement for registration of veterinary diagnostic laboratory); (b) section 24 (Conditions of registration); (c) section 27(1) (Requirement to report notifiable conditions); or (d) section 33(5) (Prohibition on entry or movement of livestock or other property absolutely or without required health certificate etc).	Each director of the Body Corporate.	Yes, if a corporate breach is established.	N/A	The person could not, by the exercise of due diligence, have prevented the commission of the offence.	N/A	Onus on the accused to establish a defence.	Type 1

South Australian laws imposing personal liability on directors and officers

Provision	Who is liable?	Is the liability automatic?	Defence of 'Due Diligence'	Defence of 'Unable to Influence'	Additional Defences	Onus of Proof	Type of Provision
<p>s 80(2): Offences by Bodies Corporate – offences attracting director liability for contravention of any other provision. This provision does not apply to contraventions of the following sections:</p> <p>(a) section 25 (Periodic returns); (b) section 26A (Requirement for identification codes); (c) section 28 (Acts causing or likely to cause livestock to become affected with notifiable condition); (d) section 35 (Investigation by owner or occupier of land); (e) section 37(5) (Gazette notices); (f) section 38(6) (Individual orders); (g) section 38(7) (Individual orders); (h) section 53 (Reservation of other areas for classes of bees by proclamation); (i) section 54 (Prohibition against keeping bees in specified areas of State); (j) section 62 (Offence to use registered brand of another); (k) section 69 (Provisions relating to seizure); (l) section 70 (Offence to hinder etc inspectors); (m) section 72(6) (Compliance notices); or (n) section 75 (False or misleading information).</p>	<p>Each director of the Body Corporate, if the prosecution proves that:</p> <p>(a) the director knew, or ought reasonably to have known, that there was a significant risk that such an offence would be committed;</p> <p>(b) the director was in a position to influence the conduct of the Body Corporate in relation to the commission of such an offence; and</p> <p>(c) the director failed to exercise due diligence to prevent the commission of the offence.</p>	<p>No, the onus is on the prosecution to prove the required elements.</p>	N/A	N/A	N/A	N/A	Type 2

South Australian laws imposing personal liability on directors and officers

Provision	Who is liable?	Is the liability automatic?	Defence of 'Due Diligence'	Defence of 'Unable to Influence'	Additional Defences	Onus of Proof	Type of Provision
Local Nuisance and Litter Control Act 2016 s 46(1): Offences by Bodies Corporate.	Each director of the Body Corporate.	Yes, if a corporate breach is established.	N/A	The person could not, by the exercise of due diligence, have prevented the commission of the offence.	N/A	Onus on the accused to establish a defence.	Type 1
s 46(2): Offences by Bodies Corporate.	Each member of the governing body of the Body Corporate, if the prosecution proves that: (a) the member knew, or ought reasonably to have known, that there was a significant risk that such an offence would be committed; (b) the member was in a position to influence the conduct of the Body Corporate in relation to the commission of such an offence; and (c) the member failed to exercise	No, the onus is on the prosecution to prove the required elements.	N/A	N/A	N/A	N/A	Type 2
Lottery and Gaming Act 1936 s 114: Premises of Body Corporate used for unlawful gaming.	Every officer of the Body Corporate who knowingly caused or permitted such unlawful gaming to take place.	No, the onus is on the prosecution to prove the required elements.	N/A	N/A	N/A	N/A	Type 3
Maralinga Tjarutja Land Rights Act 1984 s 25: Offence in relation to obtaining permission to carry out mining operations.	Each director of the Body Corporate shall be guilty of an offence and liable to a penalty not exceeding \$2,000.	Yes, if a corporate breach is established.	N/A	The person could not, by the exercise of reasonable diligence, have prevented the commission of the offence.	N/A	Onus on the accused to establish a defence.	Type 1

South Australian laws imposing personal liability on directors and officers

Provision	Who is liable?	Is the liability automatic?	Defence of 'Due Diligence'	Defence of 'Unable to Influence'	Additional Defences	Onus of Proof	Type of Provision
Marine Parks Act 2007 s 56: Offences by Bodies Corporate.	Each member of the governing body, and the manager, of the Body Corporate.	Yes, if a corporate breach is established.	N/A	N/A	Section 58 provides: It is a defence if the defendant proves that the alleged offence was not committed intentionally and did not result from a failure on the part of the defendant to take reasonable care to avoid the commission of the offence.	Onus on the accused to establish a defence.	Type 3
National Electricity (South Australia) Act 1996 Schedule, s 85: Offences and breaches by Corporations.	Each Officer of the Corporation if the Officer knowingly authorised or permitted the contravention or breach.	No, the onus is on the prosecution to prove the required elements.	N/A	N/A	N/A	N/A	Type 3
National Energy Retail Law (South Australia) 2011 Schedule, s 304: Offences and breaches by Corporations.	Each Officer of the Corporation if the Officer knowingly authorised or permitted the contravention or breach.	No, the onus is on the prosecution to prove the required elements.	N/A	N/A	N/A	N/A	Type 3
National Gas (South Australia) Act 2008 Schedule, s 288: Offences and breaches by Corporations.	Each Officer of the Corporation if the officer knowingly authorised or permitted the contravention or breach.	No, the onus is on the prosecution to prove the required elements.	N/A	N/A	N/A	N/A	Type 3

South Australian laws imposing personal liability on directors and officers

Provision	Who is liable?	Is the liability automatic?	Defence of 'Due Diligence'	Defence of 'Unable to Influence'	Additional Defences	Onus of Proof	Type of Provision
<i>Native Vegetation Act 1991</i> s 39: Offences by Bodies Corporate.	Each member of the governing body, and the manager, of the Body Corporate.	Yes, if a corporate breach is established.	N/A	N/A	Section 40 provides: It is a defence if the defendant proves that the alleged offence was not committed intentionally and did not result from a failure on the part of the defendant to take reasonable care to avoid the commission of the offence.	Onus on the accused to establish a defence.	Type 3
<i>National Resources Management Act 2004</i> s 219: Offences by Bodies Corporate.	Each member of the governing body, and the manager, of the Body Corporate.	Yes, if a corporate breach is established.	N/A	N/A	Section 218 provides: It is a defence if the defendant proves that the alleged offence was not committed intentionally and did not result from a failure on the part of the defendant to take reasonable care to avoid the commission of the offence.	Onus on the accused to establish a defence.	Type 3
<i>Nuclear Waste Storage Facility (Prohibition) Act 2000</i> s 10: Offences by Body Corporate.	Each person who is a director of the Body Corporate or a person concerned in the management of the Body Corporate.	Yes, if a corporate breach is established.	N/A	The person could not, by the exercise of reasonable diligence, have prevented the commission of the offence.	N/A	Onus on the accused to establish a defence.	Type 1

South Australian laws imposing personal liability on directors and officers

Provision	Who is liable?	Is the liability automatic?	Defence of 'Due Diligence'	Defence of 'Unable to Influence'	Additional Defences	Onus of Proof	Type of Provision
<p><i>Planning, Development and Infrastructure Act 2016</i> s 220(1): Offences by Bodies Corporate – responsibility of officers.</p>	Each director and the chief executive officer of the Body Corporate.	Yes, if a corporate breach is established.	N/A	The person could not, by the exercise of due diligence, have prevented the commission of the offence.	N/A	Onus on the accused to establish a defence.	Type 1
<p>s 220(2): Offences by Bodies Corporate – responsibility of officers.</p>	<p>Each director and the chief executive officer of the Body Corporate, if the prosecution proves that:</p> <ul style="list-style-type: none"> (a) the director or chief executive officer (as the case may be) knew, or ought reasonably to have known, that there was a significant risk that such an offence would be committed; (b) the director or chief executive officer (as the case may be) was in a position to influence the conduct of the Body Corporate in relation to the commission of such an offence; and (c) the director or chief executive officer (as the case may be) failed to exercise due diligence to prevent the commission of the offence. 	No, the onus is on the prosecution to prove the required elements.	N/A	N/A	N/A	N/A	Type 2

South Australian laws imposing personal liability on directors and officers

Provision	Who is liable?	Is the liability automatic?	Defence of 'Due Diligence'	Defence of 'Unable to Influence'	Additional Defences	Onus of Proof	Type of Provision
<p>Plant Health Act 2009 s 54(2):</p> <p>Vicarious liability – offences attracting member liability.</p> <p>Applies to offences against the following provisions:</p> <p>(a) section 6(1) (Reporting of pest affected plants and plant related products and noxious insects);</p> <p>(b) section 9 (Orders relating to pest affected plants or plant related products);</p> <p>(c) section 11(1) (Prohibition on sale of pest affected plants or plant related products);</p> <p>(d) section 28 (Conditions of registration);</p> <p>(e) section 7 (Prohibition on introducing pest affected plants or plant related products) (other than a minor offence);</p> <p>(f) section 8 (Quarantine areas) (other than a minor offence); or</p> <p>(g) section 20(3) (Conditions of accreditation) (other than a contravention of a prescribed condition).</p>	Each member of the governing body of the Body Corporate.	Yes, if a corporate breach is established.	N/A	The person could not, by the exercise of due diligence, have prevented the commission of the offence.	N/A	Onus on the accused to establish a defence.	Type 1

South Australian laws imposing personal liability on directors and officers

Provision	Who is liable?	Is the liability automatic?	Defence of 'Due Diligence'	Defence of 'Unable to Influence'	Additional Defences	Onus of Proof	Type of Provision
<p>s 54(3): Vicarious liability – offences attracting member liability for contravention of any other provision. This provision does not apply to contraventions of the following sections:</p> <p>(a) section 6(2) (Reporting of pest affected plants and plant related products and noxious insects);</p> <p>(b) section 11(2) (Prohibition on sale of pest affected plants or plant related products);</p> <p>(c) section 12 (Packaging and labelling of fruit, vegetables and nuts for sale);</p> <p>(d) section 13 (Identification of plants sold for propagation);</p> <p>(e) section 14 (Manifests);</p> <p>(f) section 15 (Accreditation of production areas);</p> <p>(g) section 23 (Surrender of accreditation);</p> <p>(h) section 24 (Suspension or cancellation of accreditation);</p> <p>(i) section 32 (Suspension or cancellation of registration);</p> <p>(j) section 33 (Offence);</p>	<p>Each member of the governing body of the Body Corporate, if the prosecution proves that:</p> <p>(a) the member knew, or ought reasonably to have known, that there was a significant risk that such an offence would be committed;</p> <p>(b) the member was in a position to influence the conduct of the Body Corporate in relation to the commission of such an offence; and</p> <p>(c) the member failed to exercise due diligence to prevent the commission of the offence.</p>	No, the onus is on the prosecution to prove the required elements.	N/A	N/A	N/A	N/A	Type 2

South Australian laws imposing personal liability on directors and officers

Provision	Who is liable?	Is the liability automatic?	Defence of 'Due Diligence'	Defence of 'Unable to Influence'	Additional Defences	Onus of Proof	Type of Provision
(k) section 38 (Duty of auditor to report certain matters);							
(l) section 39 (Offence to hinder or obstruct auditor);							
(m) section 42 (Identification of inspectors);							
(n) section 45 (Power to issue plant health certificates);							
(o) section 48 (Offence to hinder etc inspectors); or							
(p) section 51 (False or misleading statements).							
Primary Produce (Food Safety Schemes) Act 2004 s 44: Offences by Bodies Corporate – offences attracting personal liability. Applies to offences against the following provisions: (a) section 12 (Obligation to be accredited); (b) section 16(2) (Conditions of accreditation); (c) section 32 (Offence of contravening compliance order); or (d) section 35 (Exemptions).	Each director and the manager of the Body Corporate.	Yes, if a corporate breach is established.	N/A	The person could not, by the exercise of due diligence, have prevented the commission of the offence.	N/A	Onus on the accused to establish a defence.	Type 1

South Australian laws imposing personal liability on directors and officers

Provision	Who is liable?	Is the liability automatic?	Defence of 'Due Diligence'	Defence of 'Unable to Influence'	Additional Defences	Onus of Proof	Type of Provision
Radiation Protection and Control Act 1982 s 47: Offences by Body Corporate.	Each person who is a director of the Body Corporate or a person concerned in the management of the Body Corporate.	Yes, if a corporate breach is established.	N/A	The person could not by the exercise of reasonable diligence have prevented the commission of the offence.	N/A	Onus on the accused to establish a defence.	Type 1
Rail Safety National Law (South Australia) Act 2012 Schedule, s 55: Duty of officers to exercise due diligence.	If a person has a duty or obligation under the <i>Rail Safety National Law (South Australia)</i> , an officer of the person must exercise due diligence to ensure that the person complies with that duty or obligation.	No, the onus is on the prosecution to provide the required elements.	N/A	N/A	N/A	N/A	Type 3
River Murray Act 2003 s 38: Liability of Directors.	Each Director of the Corporation.	Yes, if a corporate breach is established.	The principal offence did not result from failure on the person's part to take reasonable care to prevent the commission of the offence.	N/A	N/A	Onus on the accused to establish a defence.	Type 3
Safe Drinking Water Act 2011 s 48: Offences by Bodies Corporate.	Each person who is a member of the governing body of the Body Corporate or who is concerned with the management of the Body Corporate if the person knowingly authorised or permitted the contravention.	No, the onus is on the prosecution to prove the required elements.	N/A	N/A	N/A	N/A	Type 3

South Australian laws imposing personal liability on directors and officers

Provision	Who is liable?	Is the liability automatic?	Defence of 'Due Diligence'	Defence of 'Unable to Influence'	Additional Defences	Onus of Proof	Type of Provision
<p><i>Second-hand Dealers and Pawnbrokers Act 1996</i></p> <p>s 26:</p> <p>Offences by directors of Bodies Corporate.</p>	Each Director of a Body Corporate.	Yes, if a corporate breach is established.	N/A	The person could not, by the exercise of reasonable diligence, have prevented the commission of the offence.	N/A	Onus on the accused to establish a defence.	Type 1
<p><i>Security and Investigation Industry Act 1995</i></p> <p>s 42(1):</p> <p>Offences by Bodies Corporate – offences attracting director liability.</p> <p>Applies to offences against the following provisions:</p> <p>(a) section 6 (Obligation to be licensed);</p> <p>(b) section 12A (Employment of security agents or investigation agents);</p> <p>(c) section 13 (Operation of licensed agent's business);</p> <p>(d) section 23 (Entitlement to be process server);</p> <p>(e) section 23AAA (Entitlement to provide security industry training);</p> <p>(f) section 23AA (Requirement to engage licensed security industry trainer); or</p> <p>(g) section 30 (Contravention of orders).</p>	Each director of the Body Corporate.	Yes, if a corporate breach is established.	N/A	The person could not, by the exercise of due diligence, have prevented the commission of the offence.	N/A	Onus on the accused to establish a defence.	Type 1

South Australian laws imposing personal liability on directors and officers

Provision	Who is liable?	Is the liability automatic?	Defence of 'Due Diligence'	Defence of 'Unable to Influence'	Additional Defences	Onus of Proof	Type of Provision
<p>s 42(2): Offences by Bodies Corporate – offences attracting director liability for contravention of any other provision. This provision does not apply to contraventions of the following sections:</p> <p>(a) section 18 (Name in which licensed agent may carry on business);</p> <p>(b) section 19 (Publication of advertisements by licensed agent);</p> <p>(c) section 22 (Repossession of motor vehicles to be reported);</p> <p>(d) section 23C (Content of suspension notice);</p> <p>(e) section 23G (Cancellation of licence);</p> <p>(f) section 23P (Surrender of licence); or</p> <p>(g) section 36 (Return of licences).</p>	<p>Each director of the Body Corporate, if the prosecution proves that:</p> <p>(a) the director knew, or ought reasonably to have known, that there was a significant risk that such an offence would be committed;</p> <p>(b) the director was in a position to influence the conduct of the Body Corporate in relation to the commission of such an offence; and</p> <p>(c) the director failed to exercise due diligence to prevent the commission of the offence.</p>	No, the onus is on the prosecution to prove the required elements.	N/A	N/A	N/A	N/A	Type 2

South Australian laws imposing personal liability on directors and officers

Provision	Who is liable?	Is the liability automatic?	Defence of 'Due Diligence'	Defence of 'Unable to Influence'	Additional Defences	Onus of Proof	Type of Provision
<p>South Australian Public Health Act 2011</p> <p>s 106(1): Offences by Bodies Corporate – offences attracting director liability. Applies to offences against the following provisions: (a) section 57(1) (Material risk to public health); (b) section 57(2) (Material risk to public health); (c) section 58 (Serious risk to public health); or (d) section 92(10) (Notices).</p>	Each director of the Body Corporate.	Yes, if a corporate breach is established.	N/A	The person could not, by the exercise of due diligence, have prevented the commission of the offence.	N/A	Onus on the accused to establish a defence.	Type 1
<p>s 106(2): Offences by Bodies Corporate – offences attracting director liability for contravention of section 57(3) (Material risk to public health).</p>	<p>Each member of the governing body of the Body Corporate, if the prosecution proves that:</p> <p>(a) the member knew, or ought reasonably to have known, that there was a significant risk that such an offence would be committed;</p> <p>(b) the member was in a position to influence the conduct of the Body Corporate in relation to the commission of such an offence; and</p> <p>(c) the member failed to exercise due diligence to prevent the commission of the offence.</p>	No, the onus is on the prosecution to prove the required elements.	N/A	N/A	N/A	N/A	Type 2

South Australian laws imposing personal liability on directors and officers

Provision	Who is liable?	Is the liability automatic?	Defence of 'Due Diligence'	Defence of 'Unable to Influence'	Additional Defences	Onus of Proof	Type of Provision
<i>South Eastern Water Conservation and Drainage Act 1992</i> s 55: Offences by Body Corporate.	The manager and each member of the governing body of the Body Corporate.	Yes, if a corporate breach is established.	N/A	N/A	The offence was not committed intentionally and did not result from any failure on the part of the defendant to take reasonable care to avoid the commission of the offence.	Onus on the accused to establish a defence.	Type 3
<i>Survey Act 1992</i> s 28(2): Improper directions etc to surveyor by surveying services provider.	A person who occupies a position of authority in a trust or corporate entity that directs or pressures the surveyor to act unlawfully, improperly, negligently or unfairly.	No, the onus is on the prosecution to prove the required elements.	N/A	N/A	N/A	N/A	Type 3
s 34(3): Proper cause for disciplinary action.	The occupier of a position of authority in a trust or corporate entity.	Yes, if a corporate breach is established.	N/A	The person could not, by the exercise of reasonable care, have prevented the commission of the offence.	N/A	Onus on the accused to establish a defence.	Type 1

South Australian laws imposing personal liability on directors and officers

Provision	Who is liable?	Is the liability automatic?	Defence of 'Due Diligence'	Defence of 'Unable to Influence'	Additional Defences	Onus of Proof	Type of Provision
<p>Taxation Administration Act 1996 s 110(1): Offences by persons involved in management of Corporations – offences attracting personal liability. Applies to offences against the following provisions: (a) section 59 of this Act (Deliberate tax evasion); or (b) section 14 of the <i>Debits Tax Act 1994</i> (Offences relating to certificates of exemption).</p>	A person who is concerned in, or takes part in, the management of the Corporation.	Yes, if a corporate breach is established.	N/A	The person could not, by the exercise of due diligence, have prevented the commission of the offence.	N/A	Onus on the accused to establish a defence.	Type 1
<p>s 110(2): Offences by persons involved in management of Corporations – offences attracting personal liability for contravention of any other provision. This provision does not apply to contraventions of the following sections: (a) section 75 (Hindering or obstructing authorised officers etc); (b) section 76 (Impersonating authorised officer); or (c) section 106 (Notice of liquidator's appointment).</p>	<p>A person who is concerned in, or takes part in, the management of the Corporation, if the prosecution proves that:</p> <p>(a) the person knew, or ought reasonably to have known, that there was a significant risk that such an offence would be committed;</p> <p>(b) the person was in a position to influence the conduct of the Body Corporate in relation to the commission of such an offence; and</p> <p>(c) the person failed to exercise due diligence to prevent the commission of the offence.</p>	No, the onus is on the prosecution to prove the required elements.	N/A	N/A	N/A	N/A	Type 2

South Australian laws imposing personal liability on directors and officers

Provision	Who is liable?	Is the liability automatic?	Defence of 'Due Diligence'	Defence of 'Unable to Influence'	Additional Defences	Onus of Proof	Type of Provision
<p>Teachers Registration and Standards Act 2004 s 59:</p> <p>Liability of members of governing bodies of Bodies Corporate.</p>	<p>Each member of the governing body, and the manager, of the Body Corporate, if the prosecution proves that:</p> <p>(a) the manager or member (as the case may be) knew, or ought reasonably to have known, that there was a significant risk that such an offence would be committed;</p> <p>(b) the manager or member (as the case may be) was in a position to influence the conduct of the Body Corporate in relation to the commission of such an offence; and</p> <p>(c) the manager or member (as the case may be) failed to exercise due diligence to prevent the commission of the offence.</p>	No, the onus is on the prosecution to prove the required elements.	N/A	N/A	N/A	N/A	Type 2
<p>Tobacco Products Regulation Act 1997 s 81(3):</p> <p>Vicarious liability.</p>	Any person who has derived or would, if the sale were completed, expect to derive a direct or indirect pecuniary benefit from the transaction.	No, the onus is on the prosecution to prove the required elements.	N/A	N/A	The offence was not committed intentionally and did not result from any failure on the part of the defendant to take reasonable care to avoid the commission of the offence.	Onus on the accused to establish a defence.	Type 1
<p>Training and Skills Development Act 2008 s 75B:</p> <p>Offences by Bodies Corporate and employees.</p>	Each director of the Body Corporate, and each person concerned in the management of the Body Corporate.	Yes, if a corporate breach is established.	The person took reasonable precautions and exercised due diligence to prevent the commission of an offence.	N/A	N/A	Onus on the accused to establish a defence.	Type 3

South Australian laws imposing personal liability on directors and officers

Provision	Who is liable?	Is the liability automatic?	Defence of 'Due Diligence'	Defence of 'Unable to Influence'	Additional Defences	Onus of Proof	Type of Provision
<p>Water Industry Act 2012 s 104(1):</p> <p>Offences by Bodies Corporate – offences attracting director liability. Applies to offences against the following provisions:</p> <p>(a) section 18 (Requirement for licence);</p> <p>(b) section 27 (Offence to contravene licence conditions);</p> <p>(c) section 67 (Performance of regulated work); or</p> <p>(d) section 68 (Responsibilities of water industry entity).</p>	Each director of the Body Corporate.	Yes, if a corporate breach is established.	N/A	The person could not, by the exercise of due diligence, have prevented the commission of the offence.	N/A	Onus on the accused to establish a defence.	Type 1
<p>s 104(2):</p> <p>Offences by Bodies Corporate – offences attracting director liability for contravention of any other provision. This provision does not apply to contraventions of the following sections:</p> <p>(a) section 11 (Technical Regulator's power to require information);</p> <p>(b) section 36 (Standard terms and conditions for retail services);</p> <p>(c) section 39 (Appointment of operator);</p> <p>(d) section 45 (Power to carry out work on land);</p> <p>(e) section 49 (Encroachments);</p>	<p>Each director of the Body Corporate, if the prosecution proves that:</p> <p>(a) the director knew, or ought reasonably to have known, that there was a significant risk that such an offence would be committed;</p>	No, the onus is on the prosecution to prove the required elements.	N/A	N/A	N/A	N/A	Type 2

South Australian laws imposing personal liability on directors and officers

Provision	Who is liable?	Is the liability automatic?	Defence of 'Due Diligence'	Defence of 'Unable to Influence'	Additional Defences	Onus of Proof	Type of Provision
(f) section 50(5) (Protection of infrastructure and equipment);	(b) the director was in a position to influence the conduct of the Body Corporate in relation to the commission of such an offence; and (c) the director failed to exercise due diligence to prevent the commission of the offence.						
(g) section 50(6) (Protection of infrastructure and equipment);							
(h) section 51 (Notice of work that may affect water/ sewerage infrastructure);							
(i) section 53 (Unlawful abstraction, removal or diversion of water or sewage);							
(j) section 54 (Water meters);							
(k) section 56(5) (Discharge of unauthorised material into sewerage infrastructure);							
(l) section 57 (Work to be carried out by owner at requirement of water industry entity with respect to sewerage infrastructure);							
(m) section 59 (Power to restrict or discontinue water supply);							
(n) section 60 (Power to require the use of devices to reduce flow);							
(o) section 69 (Responsibilities of customers);							
(p) section 70 (Prohibition of sale or use of unsuitable items);							
(q) section 76 (Inspection powers);							
(r) section 77 (Disconnection of supply);							
(s) section 78 (Power to make infrastructure etc safe);							

South Australian laws imposing personal liability on directors and officers

Provision	Who is liable?	Is the liability automatic?	Defence of 'Due Diligence'	Defence of 'Unable to Influence'	Additional Defences	Onus of Proof	Type of Provision
(t) section 79 (Power to require information or documents);							
(u) section 80 (Enforcement notices);							
(v) section 88 (Minister's power to require information);							
(w) section 92 (Water conservation measures);							
(x) section 97 (Obstruction of officials etc);							
(y) section 100 (Obstruction of works by occupiers);							
(z) section 101 (False or misleading information);							
(aa) section 108 (Power of exemption); or							
(bb) Schedule 2 Part 8 (Amendment of <i>South Australian Water Corporation Act 1994</i>).							
Work Health and Safety Act 2012 s 27: Duty of officers.	If a person conducting a business or undertaking has a duty or obligation under the Act, an officer of the person conducting the business or undertaking must exercise due diligence to ensure that the person conducting the business or undertaking complies with that duty or obligation.	No, the onus is on the prosecution to provide the required elements.	N/A	N/A	N/A	N/A	Type 3

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