

New Reporting requirements for Australian businesses – Modern Slavery Act in Australia

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Modern slavery includes human trafficking, servitude and forced labour, and is thought to affect around 46 million people around the world and up to 4,500 people in Australia. The World Economic Forum estimates that modern slavery in supply chains amounts to US\$150 billion of illicit profits a year. Growing awareness of modern slavery in supply chains has led to new Modern Slavery Laws being introduced in Australia. These will require businesses to publicly report on the presence and risk of modern slavery in their operations and supply chains. The Business Council supports the Modern Slavery Laws. In a statement in May, Business Council Chief Executive Jennifer Westacott acknowledged that while “increased global trade has lifted millions out of poverty...it has also increased the risk that supply chains have been tainted by the use of forced labour”. The Government’s approach to enhance transparency and accountability is commendable, and the Business Council is looking to its members to take a leadership role in combatting modern slavery.

New South Wales (NSW) passed the first Australian Modern Slavery Act 2018 on 21 June 2018. The Act requires businesses with a turnover of more than \$50 million and at least one employee registered in New South Wales to prepare a Modern Slavery Statement. While there are no mandatory reporting elements in the Act, there will be penalties of up to \$1.1 million for either non-compliance or false and misleading statements. It is not expected that the reporting requirement will apply either to foreign corporations or Government agencies. The Act also establishes the role of an Anti-Slavery Commissioner who will be responsible for maintaining a public register of Modern Slavery Statements, raising awareness, providing support to business, reporting to Parliament, and monitoring the effectiveness of the Act.

The NSW Act has both a lower financial threshold and higher penalties than the Modern Slavery Bill which was introduced to Parliament, by Assistant Minister for Home Affairs, the Hon Alex Hawke MP, on 28 June. The Bill requires entities with consolidated revenue of more than \$100 million to report on the risk of modern slavery in their operations and supply chains. It currently has no penalties for non-compliance disappointing many civil society groups who are actively pursuing the reporting requirement as a means to addressing global modern slavery. In contrast to the NSW Act, the Commonwealth Bill requires the Minister to prepare an annual modern slavery statement on behalf of all non-corporate Commonwealth entities.

Business will do well to begin to prepare for passage of this Bill through Parliament. While currently in Committee for consideration where it is possible some amendments may be proposed, the Bill, expected to pass Parliament before the end of the year, currently outlines mandatory criteria for reporting which require a business to:

- Identify the reporting entity;
- describe its structure, operations and supply chains;
- describe the risks of modern slavery practices in the operations and supply chains of the business and any businesses owned or controlled by them;
- describe the actions taken to assess and address the risks, including due diligence and remediation processes (this may include the development of policies and processes to address modern slavery risks and providing training for staff about modern slavery);
- describe how the business assesses the effectiveness of such actions;
- describe the consultation process with any entities included in the statement; and,
- Include any other relevant information.

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Joint statements may be published so long as they meet certain criteria and are approved by an appropriate governing body. All statements will be registered by the Minister and will be required to be uploaded to a register that will be publicly available online.

The mandatory reporting required by the Australian Modern Slavery Bill will undoubtedly be an additional regulatory burden. However, it is a burden with a purpose, and there is much business can do to prepare before the Bill passes towards the end of this year. This includes mapping supply chains, undertaking risk assessments (especially in high-risk countries or industries), shaping and building policies and procedures, and developing mechanisms for redress and remediation, as well as building awareness and understanding among staff. Board processes will also require updating to ensure compliance obligations under the new regime.

The effectiveness of modern slavery reporting on modern slavery is still unknown, however, domestically there has been a significant increase in awareness among businesses, suppliers, and consumers, about the very real risks of slavery, and an increasing expectation that business is addressing it. Boards, management and staff will all be required to understand, invest, and address operational and supply chain issues across the business. New and innovative approaches are emerging, and supply chain collaboration is developing across a number of industries facing similar reporting challenges. Transparency and accountability regarding modern slavery in operations and supply chains are key to addressing not only the regulatory requirements facing business but the scourge of modern slavery itself.



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