

AUSTRALIAN MODERN SLAVERY LEGISLATION APPROVED IN THE SENATE

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Legal Briefings

The Australian Senate today approved the Modern Slavery Bill. The Bill will now be returned to the House of Representatives where it is expected to be passed into law shortly.

The Bill will create an obligation for entities which have a consolidated annual revenue of at least A\$100 million, and are either Australian entities or are carrying on business in Australia, to prepare an annual statement on the risks of modern slavery in their operations and supply chains, and the actions taken to address those risks. The requirement to prepare a modern slavery statement also extends to the Commonwealth and corporate Commonwealth entities.

Section 16 of the Bill sets out mandatory requirements in relation to the content of modern slavery statements, which must:

- identify the reporting entity;
- describe the structure, operations and supply chains of the reporting entity;
- describe the risks of modern slavery practices in the operations and supply chains of the reporting entity, and any entities that the reporting entity owns or controls;
- describe the actions taken by the reporting entity and any entity that the reporting entity owns or controls, to assess and address those risks, including due diligence and remediation processes;
- describe how the reporting entity assesses the effectiveness of such actions;

- describe the process of consultation with any entities that the reporting entity owns or between reporting entities making a joint statement;
- include any other information that the reporting entity, or the entity giving the statement, considers relevant.

The types of actions taken by an entity may include the development of policies and processes to address modern slavery risks, and providing training for staff about modern slavery.

The Bill seeks to ensure senior management accountability for the content of modern slavery statements by requiring that they be signed by a director (or other responsible officer) and approved by the board or other governing body of the reporting entity.

Modern slavery statements must be given to the Minister of Home Affairs who is responsible for establishing an online Modern Slavery Statements Register which will be publicly accessible.

The Government's explanatory memorandum explains that reporting entities may also make modern slavery statements available on their own webpages. This has been the practice of organisations publishing statements under the UK Modern Slavery Act 2015.

The Minister for Home Affairs will have a power to request entities to explain any failure to comply with the obligation to prepare a modern slavery statement or to undertake remedial action. The Minister is also empowered to publish details of entities which, in the Minister's opinion, have failed to comply with the legislation.

Provision is also made in the Bill for a three year review, which will specifically include consideration of whether civil penalties should be imposed for failure to comply with the legislation. The Opposition had proposed amendments to the Bill to impose civil penalties (similar to the NSW Modern Slavery Act, which we have reported on [here](#)) and, if there is a change in Government next year, it is possible that civil penalties will be introduced in the shorter term.

The Government's explanatory memorandum indicates that the legislation is expected to enter into force in January 2019 and that most reporting entities will be required to prepare and publish their first modern slavery statement in 2020, covering the 2019/20 financial year.

The Government is preparing detailed guidance on the reporting requirement, which is expected to be made available in the early part of next year.

We will provide further updates as the Bill progresses.

KEY CONTACTS

If you have any questions, or would like to know how this might affect your business, phone, or email these key contacts.



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