

MODERN SLAVERY POSES NEW CHALLENGES FOR BUSINESS

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Legal Briefings - By **Antony Crockett** and **Oliver Elgie**

With effect from 29 October 2015, businesses with a commercial presence in the UK and a worldwide turnover in excess of £36 million now have to report annually on the steps they have taken to ensure that their businesses and supply chains are free of slavery and human trafficking.

The UK Modern Slavery Act - which received Royal Assent on 26 March 2015 - also consolidates the law relating to slavery, servitude, forced and compulsory labour and human trafficking. These offences now carry a maximum penalty of life imprisonment.

The Act comes at a time of increasing concern regarding slavery and human trafficking affecting global supply chains, particularly in Asia.

THE REPORTING REQUIREMENT

The reporting requirement came into force on 29 October 2015 and it applies very broadly. It catches all organisations with a business presence in the UK, wherever incorporated, with a turnover in excess of £36 million.

Businesses caught by the reporting requirement must prepare a slavery and human trafficking statement each financial year. The statement must be public facing, published prominently on the organisation's website (if it has one) and written in simple language that is easy to understand.

The statement should set out the steps the business has taken to ensure that slavery and human trafficking is not taking place in: (i) its supply chains; or (ii) any part of its own business. Organisations that take no steps must say so in the statement.

This is similar to the 'comply or explain' regime for non-financial reporting for quoted companies in the UK and large companies in the EU.

Companies that make positive statements regarding the steps they have taken to ensure that their supply chains are slavery-free will need to undertake thorough due diligence before reporting. A statement that no such steps have been taken may attract negative publicity, and companies should be prepared to explain why they considered it unnecessary to take any steps.

THE CONTENTS OF THE SLAVERY AND HUMAN TRAFFICKING

The Act does not prescribe what information should be included in the statement. The Act does, however, specify a number of broad areas that should be covered in the statement. In addition, the UK Home Office has issued [guidance](#) on the contents of the statement. The statement should include details of:

1. the organisation's structure, business and supply chains,
2. the any corporate policies relating to slavery and human trafficking,
3. key risk areas for the organisation, how risks are identified and how they are addressed,
4. any due diligence or steps taken to prevent human trafficking in its business and supply chains,
5. an opinion on the effectiveness of those steps, measured against performance indicators, and
6. any anti-slavery and human trafficking training available to staff.

ACCOUNTABILITY FOR THE SLAVERY AND HUMAN TRAFFICKING STATEMENT

A member of senior management, such as a director or partner, must sign off on the statement. For risk management purposes, organisations may prefer to have a wider number of senior management sign off.

The contents of the statement should be carefully verified, as false or misleading statements may give rise to allegations of misrepresentation, breach of directors' duties or market misconduct.

There are no civil or criminal penalties attached to a failure to report. The Secretary of State may, however, obtain an injunction to compel the offending business to publish the statement.

TRANSITIONAL PERIOD

The reporting requirements came into force on 29 October 2015. However, businesses with a financial year-end date between 29 October and 30 March 2016 will not be required to publish a statement for that financial year. Businesses with a year-end of 31 March 2016 will be the first businesses required to publish a statement for their 2015-16 financial year. These organisations will be required to produce a statement covering the full financial year.

For further information on the reporting requirements imposed by the Act and the risk management issues associated with slavery and human trafficking please contact [Daniel Hudson](#), [Antony Crockett](#), [Gitta Satryani](#), [Fatim Jumabhoy](#), or your other Herbert Smith Freehills contacts.

This article was written by Antony Crockett, Senior Associate, Jakarta and Oliver Elgie, Senior Associate, London, Herbert Smith Freehills LLP.

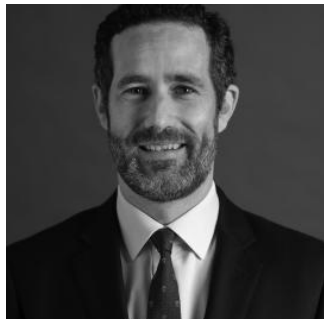
KEY CONTACTS

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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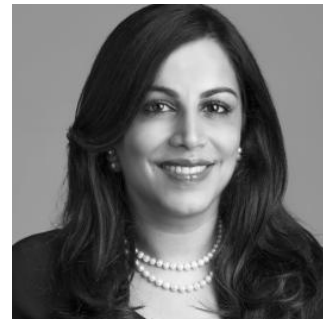
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