

1. What is the Modern Slavery Act 2015 and Why do Businesses Need to Know About it?

The Act deals with a variety of matters relating to slavery and human trafficking. The most relevant section for businesses is section 54 which will require commercial organisations over a certain size to disclose what activities they have undertaken to eliminate slavery and human trafficking from their supply chains and their own business.

2. What is this New Disclosure Obligation?

Affected businesses will be required to produce a so-called "slavery and human trafficking statement" every financial year that sets out the steps they have taken during the financial year to ensure that slavery and human trafficking is not taking place in any of their supply chains or in any part of their own business. If they have not taken such steps, this must be expressly stated.

Although it will be entirely possible for businesses to comply with this new duty by simply stating that they have taken no steps during the relevant financial year to ensure that their business and supply chains are slavery free, the Government hopes that the risk of negative publicity (from consumers, the public, investors, etc.) will be sufficient to ensure that affected businesses do feel compelled to take some steps in this direction.

Businesses will be required to publish this statement on their website and there must be a prominent link to the statement on the homepage. If a business does not have a website it must provide a copy of the statement to anyone who requests one in writing, within 30 days of the request.

3. What is "Slavery and Human Trafficking"?

The term covers a number of specific offences under the Act, but in very general terms slavery is where ownership is exercised over a person, where individuals are coerced into providing their services or do so under threat of a penalty. "Human trafficking" covers arranging or facilitating the travel of individuals with a view to exploiting them.

Slavery and human trafficking are global problems, with the UN and other supranational organisations estimating that the modern slavery and human trafficking trade is worth a minimum of US\$32 billion per year. Those sectors most likely to be affected are construction, agriculture, textiles, security, food processing and packaging, and hospitality and tourism.

4. What Businesses Will Be Affected By This New Disclosure Obligation?

Businesses will be affected if they:

- **are a commercial organisation**, i.e. a business or partnership (whether or not incorporated or formed in the UK) which carries on a business or part of a business in the UK. It will therefore catch foreign businesses and not just UK businesses;

- **supply goods or services**; and
- **have a total annual turnover of not less than £36 million** – this is determined by taking into account the turnover of the organisation and its subsidiary undertakings.

The Government is targeting large businesses initially because it believes they have the resources to undertake the necessary due diligence and also sufficient purchasing power and influence to create effective change within a supply chain.

5. What Information Must Be Included In a Slavery and Human Trafficking Statement?

The Act does not set out what form a slavery and human trafficking statement must take. Instead it sets out six suggestions as to what information could be included:

- a. The organisation's structure, business and its supply chains;
- b. Its policies in relation to slavery and human trafficking (so creating an implicit pressure to introduce such policies);
- c. Its due diligence processes in relation to slavery and human trafficking in its business and supply chains;
- d. The parts of its business and supply chain where there is a risk of slavery and human trafficking taking place, and the steps it has taken to assess and manage that risk;
- e. Its effectiveness in ensuring that slavery and human trafficking is not taking place in its business or supply chains, measured against such performance indicators as it considers appropriate; and
- f. The training about slavery and human trafficking available to its staff.

6. Is There Any Guidance Available For Businesses On What They Need To Do?

The Government has produced [guidance](#) on the new duty, including on the sort of information that could be included in a slavery and human trafficking statement.

7. Who Within The Business Will Be Responsible For Producing This Statement?

This will be a matter for each business to decide. The statement will, however, have to have the appropriate support and approval from senior management. For companies this means the Board of Directors must approve the statement and it must be signed by a director. There are equivalent provisions for partnerships.

8. When Does This New Obligation Come Into Force?

The new obligation comes into force on **29 October 2015**, but there will be transitional provisions to allow affected businesses sufficient time to understand the new requirements and produce a statement.

Businesses with a year-end date of 31 March 2016 or after will be the first businesses to publish a statement for their 2015-2016 financial year.

Business with a year-end date on or before 30 March 2016 will not be required to publish a statement for their 2015-2016 financial year.

9. What Are The Implications For Businesses if They Do Not Comply?

There will be no financial or criminal penalties for failing to comply with this new disclosure obligation. The Government will, however, have the ability to bring proceedings in the High Court for an injunction requiring an organisation to comply. It remains to be seen to what extent the Government is prepared to take such a step, especially given that it is the anticipated public flak from the absence of the statement which is intended to be the incentive to comply.

In practice the most likely implications for businesses that do not set out the steps they have taken to eliminate slavery and human trafficking from their supply chains and their own business is the risk of negative publicity, the threat to brand value, company reputation and investor relations. Such statements may well become a pre-requisite for tenders for certain work from Government and other concerned bodies.

In the US claimants' lawyers have recently brought "consumer class action lawsuits" alleging that companies are not living up to their public statements concerning their supply chain obligations under the California Transparency in Supply Chains Act - an Act similar to the UK Modern Slavery Act. Companies with a US presence should therefore be very careful about overpromising in their UK disclosures, as there is no reason under US law why UK disclosure statements could not form the basis of such lawsuits in the future.

10. What Should Businesses be Doing Now?

To the extent they have not already done so, businesses should be taking action now to satisfy this new obligation. Steps should include:

- a. deciding which senior individual(s) within the business will be responsible for compliance;
- b. thinking about what information could be included in the statement and pulling this together;
- c. auditing the business and supply chains to help determine the level of exposure, whether or not slavery and human trafficking is a potential issue for the business and where exposure is greatest;
- d. developing or updating supplier codes of conduct, tender requirements and supplier contracts to account for the issue including, for example, requirements on meeting minimum labour standards in their supply chain;
- e. putting in place policies and codes of conduct to combat slavery and human trafficking in the business and supply chains;

- f. identifying who will require training on the new obligations, for example directors and employees who have direct responsibility for supply chain management and procurement;
- g. consulting with individuals in the workforce who may potentially be affected; and
- h. ensuring there are effective grievance and whistleblowing mechanisms in place so that concerns over slavery and human trafficking may be raised.

If you would like:

- further information on the new UK disclosure obligations;
- assistance in producing a slavery and human trafficking statement; or
- an opportunity to discuss wider global compliance obligations, including how the new UK obligations sit with the California Transparency in Supply Chains Act, please get in touch with your usual Squire Patton Boggs lawyer or one of the contacts below.

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