A Modern Slavery Act for Australia:
Implications for Corporate Supply Chains

This article was written by Jason Watts and Shabarika Ajitkumar.

The 2016 Global Slavery Index estimates that 45.8 million people are in some form of modern slavery, which is an umbrella term used to describe a range of exploitative practices such as forced labour.

This issue has been a focus for the Australian Government this year and the Attorney-General has asked the Foreign Affairs and Aid Sub-Committee of the Parliament’s Joint Standing Committee on Foreign Affairs, Defence and Trade (Sub-Committee) to commence an inquiry into whether Australia should adopt legislation to combat modern slavery, comparable to the United Kingdom’s Modern Slavery Act 2015 (UK Act).

While forms of modern slavery are criminalised under the Criminal Code Act 1995 (Cth), the introduction of a regime similar to the UK Act would have implications for company boards through the requirement for increased monitoring and reporting regarding corporate supply chains.

The UK Framework and Supply Chain Transparency Requirements

The principal aspect of the UK Act that company directors should be aware of are the transparency in supply chain requirements, which apply to all commercial organisations that:

- carry on a business, or part of a business, in any part of the United Kingdom;
- supply goods or services; and
- have an annual turnover of £36 million or more.

The UK Act requires organisations to publish an annual slavery and human trafficking statement (Statement) disclosing the steps the organisation has taken to ensure that slavery and human trafficking is not taking place in any of its supply chains and in any part of its business. If no steps have been taken to address these matters, the Statement must report that no steps have been taken by the organisation. While the UK Act does not specifically mandate what should be included in the Statement, it suggests that the Statement may include information about:

- the organisation’s structure, its business and its supply chains;
- its policies in relation to slavery and human trafficking;
- its due diligence processes in relation to slavery and human trafficking in its business and supply chains;
- the parts of its business and supply chains where there is a risk of slavery and human trafficking taking place, and the
steps it has taken to assess and manage that risk;
- 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
- the training about slavery and human trafficking available to its staff.

Company directors should note that Statements must be approved by the board of directors (or equivalent managing body) and signed by a director (or equivalent). Organisations are also required to publish Statements on their website. The publication of Statements means that there may be significant reputational implications if organisations fail to establish adequate controls to monitor supply chain issues or provide inadequate disclosure in response to the transparency in supply chain requirements.

**Takeaways for Australian Boards**

Boards of any Australian commercial organisations that satisfy the above criteria are already subject to the requirements of the UK Act.

It is very possible that the Sub-Committee will recommend adopting legislation comparable to the UK Act, including implementing transparency in supply chain requirements similar to those described above. Boards should therefore be aware of the requirements under the UK Act, which are being closely considered by the Sub-Committee as part of its inquiry, and use this opportunity to better understand and scrutinize the current policies and procedures adopted by their organisations relating to procurement and supply chain management, diligence, auditing and reporting requirements.

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