

Modern Slavery Act - Review 2023

Summary

On 25 May 2023, the Attorney-General's Department released the outcomes of the statutory review ("**the Review**") of the *Australian Modern Slavery Act 2018* (Cth) ("**the Act**"). The Review proposes changes to the current Act and focuses on strengthening Australia's efforts to combat modern slavery in alignment with the United Nations Guiding Principles on Business and Human Rights regarding due diligence and reporting requirements for businesses.

The Act came into force on 1 January 2019, requiring larger companies and other entities in Australia to report on how they prevent and address modern slavery risks in their operations and supply chains. The aim of the Act was to:

- increase transparency in business operations and supply chains;
- impose due diligence obligations on businesses; and
- require businesses to report on their modern slavery risks and address the issues identified.

The Act requires a responsible entity to submit a modern slavery statement ("**MSS**") to the government every year. Broadly, a 'reporting entity' is defined under section 5 of the Act as an entity with an annual revenue of at least \$100 million that is either Australian, carries on business in Australia, or is a Commonwealth entity within a specified reporting period.

Review of the Act

The Act's recent three-year statutory review has proposed changes for Parliament's consideration. A central theme across the recommendations was the concern that the current approach which requires entities to submit reports has not correlated with taking accountability - which is the core aim of the Act. Instead, the Review found that the obligations imposed by the Act were ineffective at prompting entities to assess the human rights impacts of their decisions. The Review has also highlighted that the lack of penalties may be reason for why entities have not taken genuine measures to identify, manage and control risks. Some key points include:

Reducing the reporting threshold	the reporting threshold for entities to be reduced from \$100 million to \$50 million.
Penalties	the introduction of penalties for non-compliance and knowingly including materially false information in the MSS.
Commonwealth Anti-Slavery Commissioner	the appointment of a Commissioner to oversee Act compliance and publish standards for MSS preparation.
Due-diligence systems	the establishment of a due diligence system by reporting entities with the knowledge that the failure to include a description of the system in the MSS would be an offence.

Next Steps

The recommendations from the Review are not yet legally binding and will be incorporated in the Act through amendments to the current Act. Businesses must reassess the efficacy of their existing modern slavery risk procedures to ensure compliance with these recommendations. Cleveland & Co can assist you in drafting or reviewing your firm's MSS to ensure that it is compliant with the amended Act. The report of the statutory review of the Act can be accessed [here](#).

For more information, and any guidance or advice, Cleveland & Co External in-house counsel™, your specialist outsourced legal team, are here to help.

If you need any help or further information, please contact Tanja Listar:

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