



Slavery: not turning a blind eye

13 November 2015

The Modern Slavery Act 2015 aims to tackle offences related to slavery and human trafficking in the modern day. The Act has commercial implications as it relates to transparency in supply chains and requires commercial organisations of a certain size to prepare a slavery and human trafficking statement for each financial year. This new obligation will raise expectations and standards regarding the steps that businesses take to ensure modern slavery is not a feature of their organisation.

The offence of slavery, servitude and forced or compulsory labour is committed when a person holds another person in slavery or servitude, or requires another person to perform forced or compulsory labour, and the circumstances are such that the person knows or ought to know that this is the case. The offence of human trafficking is committed when a person arranges or facilitates the travel of another person with a view to that other person being exploited, regardless of whether such travel is consented to.

What must be produced?

Section 54 requires commercial organisations to prepare a slavery and human trafficking statement for each financial year of the organisation. The statement must state the steps that the organisation has taken during the financial year to ensure that slavery and human trafficking is not taking place in any of its supply chains and in any part of its own business, or otherwise state that the organisation has taken no such steps. In this context, 'supply chain' is to be given its ordinary meaning and, while the organisation should try to set out all actions taken, it is not required to guarantee that the entire supply chain is slavery free. If the commercial organisation opts to state that no such steps have been taken, it places its reputation and future profitability in danger.

Guidance on its production

Although making the statement is mandatory, the Act does not prescribe its form, layout or specific content. Home Office guidance advises that the statement should be in simple language, succinct and in English, and provide appropriate links to publications, documents or policies. It suggests that actions should be specified by country to contextualise them. It may be advisable for organisations to include, at the start of the statement, an introduction from a relevant member of its senior management, to demonstrate and emphasise the organisation's commitment to increasing transparency and tackling modern slavery.

The Act does give assistance as to the content of the statement, in asserting that it may include information about:

- The organisation's structure, business and supply chains
- The organisation's policies in relation to slavery and human trafficking
- The organisation's due diligence processes in relation to slavery and human trafficking in its business and supply chains
- The parts of the business and supply chains where there is a risk of slavery and human trafficking, and the steps taken to assess and manage such risk
- The organisation's effectiveness in ensuring slavery and human trafficking is not taking place in its business or supply chains, measured against appropriate performance indicators
- Training available to staff about slavery and human trafficking

Who must produce it?

The new duty affects bodies corporate or partnerships, wherever incorporated, which carry on a business or part of a business in the UK, supply goods or services, and have a total annual turnover of not less than £36 million.

Although smaller organisations are not required to publish a statement, they may well be affected as a result of larger organisations scrutinising themselves and their supply chains in greater depth. If a commercial organisation's total annual turnover drops to below £36 million, although a statement is only mandatory for each financial year in which annual turnover is £36 million or more, it would be good practice for that organisation to continue publishing an annual statement, demonstrating its commitment to the cause.

When must it be produced?

The statement should be produced as soon as reasonably practicable after, and advisably within six months of, the end of the relevant financial year.

Where must it be produced?

If the organisation has a website it must publish the statement on that website and include a link to the statement in a prominent place on that website's homepage.

If the organisation does not, however, have a website, it must provide a copy of the statement to anyone who makes a written request for one. The copy must be provided before the end of the period of 30 days beginning with the date the request was received.

What happens if you don't comply?

If a commercial organisation fails to publish a statement when it is required to do so under the Act, the Secretary of State can bring civil proceedings in the High Court for an injunction. The organisation will be in contempt of court if it fails to comply with an injunction, and so may face an unlimited fine.

Looking Forward: Practical Advice

Businesses should analyse their structure and organisation to identify how many statements they must prepare, and investigate the substance and success of current policies and procedures, if any, they have in place to combat modern slavery. Risk assessments should also be conducted to reveal areas of the business and its supply chains that are high risk in relation to slavery and human trafficking, enabling additional measures to be devised and tailored accordingly. It may also be advisable for businesses to undertake site inspections, provide training on modern slavery for staff and suppliers, and ensure there is an adequate whistleblowing policy in place to further transparency and enable any potential issues concerning modern slavery to be raised. This is of particular relevance where the

ultimate source of raw materials (such as clothing, recycled goods or extracted minerals "rare earths") may come from Sub-Saharan Africa, the Indian Sub-Continent and the Far East.

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