

2019 Years a Slave



The Modern Slavery Act

Good news! After (too many) years of attempts, Australia finally introduced a Modern Slavery Act! The Act came into effect 1 January 2019 and you need to start considering your obligations now.

Here's what you need to know.

What is Modern Slavery?

In plain English, someone is in slavery if they are:

- ⌋ forced to work – through coercion, or mental or physical threat;
- ⌋ owned or controlled by an 'employer', through mental or physical abuse or the threat of abuse;
- ⌋ dehumanised, treated as a commodity or bought and sold as 'property'; or
- ⌋ physically constrained or have restrictions placed on their freedom of movement.

It can include forced labor, debt bondage or bonded labor, human trafficking, descent-based slavery, child slavery and forced and early marriage.

Does the Act apply to me?

If your organisation has an annual revenue of over \$100 million, sure does! If you don't meet that threshold you can agree to opt in.

What do I need to do?

The Act directs organisations to prepare an annual modern slavery statement. It must:

- a. describe the entity's structure, operations and supply chains;



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- b. identify the risks of modern slavery in operations and supply chains;
- c. detail the action taken to assess and address those risks;
- d. set out how the organisation assesses the effectiveness of their response; and
- e. have the statement approved by the board or (equivalent) and signed by a company director.

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The first modern slavery statement is due on **June 30, 2020**.

Then what?

Each statement will be published to a central register that is accessible to all.

What's missing?

Teeth. The Act doesn't implement any penalties for failing to lodge or lodging an incomplete statement, nor does it create an independent anti-slavery commissioner with the authority and resources to oversee compliance.

However, the modern slavery register is publicly accessible. It will be obvious which companies have failed to comply.

What if my organisation is in New South Wales?

Not to be out-done, NSW has introduced its own Modern Slavery Act, which adds additional requirements for organisations operating in NSW. Although the NSW provisions have not commenced yet, we suspect they will later this year. Here's what stands out from that legislation:

- a. A lower threshold. Organisations with an annual turnover of over \$50 million must prepare a modern slavery statement each financial year containing information required by the regulations. These haven't been published but will likely be like the Commonwealth requirements.
- b. Finally, penalties! The NSW legislation introduces penalties of up to \$1.1 million for failing to prepare or providing false or misleading information in connection with a statement.

Look, it's 2019 and we're still talking about slavery. The Act may not be perfect, but it is a much-needed step in the right direction.

Questions? Give us a call.