

Taming the beast: the Modern Slavery Act's effort to regulate global enterprise

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STRUCTURE

The Global Corporation and the regulatory gaps

The impetus for the MSA

An overview of the MSA

Challenges companies are likely to face

Some conclusions





International law's role

- Sustainable Development Goals (Goals 8, 12 and 17)
- UN Guiding Principles on Business and Human Rights
- Global Reporting Initiative
- UN Global Compact
- UN Global Compact Network Australia
- Responsible Business Alliance
- Equator Principles
- OECD Guidelines for Multinational Enterprises (and guidance documents on mining 2011, agriculture 2016, footwear and garments 2017)

International law and slavery

- Slavery is prohibited under the 1948 Universal Declaration of Human Rights, which states: "No one shall be held in slavery or servitude: slavery and the slave trade shall be prohibited in all their forms."
- Definitions of modern-day slavery are mainly taken from the 1956 UN supplementary convention, which says: "debt bondage, serfdom, forced marriage and the delivery of a child for the exploitation of that child are all slavery-like practices and require criminalisation and abolishment".
- The 1930 Forced Labour Convention defines forced labour as "all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily"







Comparable legislation

- UK - Modern Slavery Act 2015
- France – Duty of Vigilance Law 2017
- USA – California Business Supply Chain Transparency and Slavery Act 2012
- EU Non-Financial Reporting Directive 2017, EU Conflict Minerals Regulation 2021

Overview of the Modern Slavery Act

- Definition of modern slavery – eight types recognized: slavery, servitude, the worst forms of child labour, forced labour, human trafficking, debt bondage, forced marriage and deceptive recruiting for labour or services
- Which entities have to report?
- What do they have to report on?

Modern slavery statement – s 16

- identify the reporting entity
- describe the structure, operations and supply chains of the reporting entity
- describe the risks of modern slavery practices in the operations and supply chains of the reporting entity, and any entities that the reporting entity owns or controls
- describe the actions taken by the reporting entity and any entity that the reporting entity owns or controls, to assess and address those risks, including due diligence and remediation processes;
- describe how the reporting entity assesses the effectiveness of such actions
- describe the process of consultation
- include any other relevant information

Revised Guidelines Released

Companies must act

How to comply

New Compliance Rules

Regulations take effect

Law Changes

How rules affect you

Deadline Set for New Business Rules

Images – references

- Rana plaza image
(https://www.google.com/search?q=rana+plaza+and+worker%27s+safety&rlz=1C5CHFA_enAU832AU837&source=lms&tbm=isch&sa=X&ved=0ahUKEwjgsKa8ipjhAhX473MBHV-0DvEQ_AUIDygc&biw=770&bih=640#imgrc=Tmm8kb_41yebJM:)
- Fish and chips image
(https://www.google.com/search?rlz=1C5CHFA_enAU832AU837&biw=770&bih=640&tbm=isch&sa=1&ei=-wyWXIK6HtDbz7sP192Z8Ao&q=fish+and+chips+australia&oq=fish+and+chips+australia&gs_l=img.3..0j0i8i30j0i24l3.54296.55841..56067...0.0..0.199.1338.0j10.....0....1..gws-wiz-img.....0i67j0i30.Rgj5_mFjPjY#imgrc=SvfUTKr5UeVkpM:)
- Hand and Phone (<https://www.abc.net.au/news/2018-07-25/cobalt-child-labour-smartphone-batteries-congo/10031330>)
- Ref – children in Congo (<https://steemit.com/news/@anonnews/amnesty-international-apple-and-microsoft-using-batteries-made-with-cobalt-mined-by-7-year-old-children-in-congo>)