

Modern Slavery Act 2015 – an overview

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The Modern Slavery Act 2015 (MSA) consolidates UK law on slavery and human trafficking. A new provision of the MSA came into force in October 2015, which places an obligation on businesses to have transparency within their supply chains and prepare an annual Slavery and Human Trafficking Statement.

Which businesses will have to make a Slavery and Human Trafficking Statement?

A business will have to comply with the reporting requirements laid out in the Act if:

- it is incorporated or a partnership;
- it "carries on a business, or part of a business" in the UK;
- its turnover or the turnover of a parent company and its subsidiaries is equal to or greater than £36 million per annum;
- it supplies goods or services.

The term "carries on a business" is not defined in the Act, guidance issued by the Home Office suggests that a "common sense approach" should be applied to determine if a company carries on a business in the UK. Overseas companies with subsidiaries in the UK will need to analyse whether the Act applies only to the UK subsidiaries or also to the overseas parent.

Total turnover is calculated as the turnover of the organisation and of any of its subsidiary undertakings, including those operating outside the UK, after deduction of trade discounts, VAT and other taxes. With franchising models, only the turnover of the franchiser is included.

Although the legal duty to prepare the statement will fall on larger organisations, smaller businesses within the supply chain should also be aware of the Act as they may well be asked by their clients to demonstrate how they are complying with the Act.

What information must the statement include?

The organisation must provide either:

- A statement detailing what steps the business has taken during the financial year to ensure that slavery and human trafficking is not taking place within its supply chain or any part of its business; or
- A statement that the organisation has not taken any such steps.

The statement may include information about the organisation's structure, its business and its supply chains; its policies, due diligence processes and staff training in relation to slavery and human trafficking; any risks identified and steps

taken to manage such risks; and its effectiveness in ensuring that slavery and human trafficking is not taking place.

Where should the statement be published?

It is envisaged that most companies will publish the statement in their annual accounts. However, if the organisation also has a website, a copy of the statement must be placed on the website, with a prominent link to the statement appearing on the homepage.

If the business does not have a website, then it must provide a copy of the statement in writing to anyone who requests it, within 30 days of receipt of the request.

Who must approve the statement?

The statement must be approved by the company's Board and signed by a director. In the case of a Limited Liability Partnership, the statement must be approved by the member and signed by a designated member (or in the case of a partnership, signed by a partner).

What are the consequences for non-compliance?

Whilst it is not a criminal offence, and there is no financial penalty for failure to publish the statement, the Secretary of State has the power to seek an injunction in accordance with section 54 of the Modern Slavery Act, requiring the organisation to comply. In reality, the practical effect of this power of enforcement is likely to be to create adverse publicity.

What are the deadlines for compliance?

A slavery and human trafficking statement must be produced for every financial year ending on or after 31 March 2016. The Home Office expects businesses to make their statement as soon as reasonably practicable after the end of the financial year and, in any event, within six months of such date.

Tips on how to prepare:

- Existing policies – review existing corporate responsibility policies and consider whether they already address the issues required to be covered off in the statement. If not, consider what additional policies you may need.
- Pay and immigration – ensure that all workers are in receipt of the minimum wage and that you have robust immigration checks in place.
- Supply chain – review your supply chain and consider seeking assurances that they are committed to compliance with the Act.

For further information please contact james.oury@ocsolicitors.com

Disclaimer:

This note does not contain a full statement of the law and it does not constitute legal advice. Please seek legal advice if you have any questions about the information set out above.