

Comparative Table of Modern Slavery Legislation (as at 30 November 2018)

	UNITED KINGDOM	COMMONWEALTH OF AUSTRALIA	NEW SOUTH WALES
Legislation	<i>Modern Slavery Act</i> 2015 (UK) commenced 26 March 2015.	<i>Modern Slavery Bill</i> 2018 passed the Senate and House of Representatives on 29 November 2018 and is awaiting commencement. ⁱ	<i>Modern Slavery Act</i> 2018 (NSW) has been passed and is awaiting commencement. ⁱⁱ
Reporting Threshold	£36 million (\$60 million).	\$100 million.	\$50 million.
Reporting Requirements	A commercial organisation falling within the scope of the Act must prepare a slavery and human trafficking statement for each financial year of the organisation. ⁱⁱⁱ	An entity which has a consolidated revenue of at least \$100 million for the reporting period, if the entity: <ul style="list-style-type: none"> (i) is an Australian entity at any time in that reporting period; or (ii) carries on business in Australia at anytime in that reporting period.^{iv} 	All commercial entities (that supply goods and services for profit or gain) above the revenue reporting threshold, that have employees in NSW, are to prepare annual public modern slavery statements for each financial year.
Reporting Criteria	Reports are to include details on an organisation's: <ul style="list-style-type: none"> o structure, business and supply chains; o its policies in relation to slavery and human trafficking; o its due diligence processes in relation to slavery and human trafficking in its business and supply chains; o potential risks of slavery and human trafficking taking place, and the steps it has taken to assess and manage that risk; o its effectiveness in ensuring that slavery and human trafficking is not taking place in its business or supply chains, measured against such performance indicators as it considers appropriate; and o the training about slavery and human trafficking available to its staff. 	Mandatory reporting criteria will require reporting entities to provide information to: <ul style="list-style-type: none"> o identify the reporting entity; and o describe the structure, operations and supply chains of the reporting entity; and o 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; and o 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; and o describe how the reporting entity assesses the effectiveness of such actions; and o describe the process of consultation with: <ul style="list-style-type: none"> ▪ any entities that the reporting entity owns or controls' and 	The statement is to contain such information as may be required by or under the regulations for or with respect to steps taken by the commercial organisation during the financial year to ensure that its goods and services are not a product of supply chains in which modern slavery is taking place. Without limiting the above, the regulations may require a modern slavery statement to include information about the following: <ul style="list-style-type: none"> o the organisation's structure, its business and its supply chains; o its due diligence processes in relation to modern slavery in its business and supply chains; o parts of its business and supply chains where there is a risk of modern slavery taking place, and the steps it has taken to assess and manage that risk; and o the training about modern slavery available to its employees.^{vi}

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		<ul style="list-style-type: none"> ▪ in the case of a reporting entity covered by a statement under a joint modern slavery statement – the entity giving the statement; and ○ include any other information that the reporting entity, or the entity giving the statement, considers relevant.^v 	
Voluntary Reporting Criteria (i.e. can entities not required by law to report, still voluntarily report?)	No.	Yes. ^{vii}	Generally no, however the Bill empowers the Minister to specify criteria upon which entities must report, which would enable a voluntary reporting regime for those entities which fall outside of the reporting threshold. ^{viii}
Exempt Reporting Bodies	Commercial organisations that are below the reporting threshold.	Entities which are below the reporting threshold.	<ul style="list-style-type: none"> ○ commercial entities which are below the reporting threshold; ○ commercial entities that do not supply goods and services for profit or gain; ○ where the entity is subject to obligations under a law of the Commonwealth or another State or Territory that is prescribed as a corresponding law (to prevent duplication).
Reporting Requirement apply to foreign entities	No.	Yes. ^{ix}	Yes. ^x
Definition of “entity”	“Entity” is not mentioned in the Act. ^{xi}	<p>“Entity”^{xii} means— any of the following:</p> <ul style="list-style-type: none"> ○ an individual; ○ a body corporate; ○ a body politic; ○ a partnership; ○ any other unincorporated association or body of persons; ○ a trust; ○ a superannuation fund; and 	“Entity” is not mentioned in the Act.

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		<ul style="list-style-type: none"> ○ an approved deposit fund. <p><i>“Reporting Entity”</i> means— an entity which is within the revenue threshold for the reporting period, if the entity:</p> <ul style="list-style-type: none"> (i) is an Australian entity at any time in that reporting period; or (ii) carries on business in Australia at any time in that reporting period; <ul style="list-style-type: none"> ○ the Commonwealth; ○ a corporate Commonwealth entity, or a Commonwealth company,^{xiii} which is within the revenue threshold for the reporting period; ○ an entity which has volunteered to comply with the requirements of this Act under section 6^{xiv} for that period. 	
Definition of “organisation”	<p><i>“Commercial Organisation”</i> means—</p> <ul style="list-style-type: none"> (a) <i>supplies goods or services, and</i> (b) <i>has a total turnover of not less than an amount prescribed by regulations made by the Secretary of State.</i>^{xv} 	<p><i>“Organisation”</i> is not mentioned in the Act.</p>	<p><i>“Organisation”</i> means—</p> <ul style="list-style-type: none"> (a) any corporation^{xvi} or incorporated partnership; (b) an association (including a partnership) other than one referred to in paragraph (a), or other body of persons. <p><i>“Commercial Organisation”</i> means— an organisation (other than a government agency of the State) having employees in the State that:</p> <ul style="list-style-type: none"> (a) supplies goods and services for profit or gain; and (b) has a total turnover in a financial year of the organisation of not less than \$50 million or such other amount as may be prescribed by the regulations.
Public Sector Reporting	No.	Yes.	<ul style="list-style-type: none"> ○ Public sector is required to take ‘reasonable steps’ to ensure goods and services are not products of modern slavery. ○ Auditor-General is empowered to conduct Modern

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			Slavery Audit to ensure due diligence in the public sector.
Overseeing Reporting Body	Independent Anti-Slavery Commissioner.	Business Engagement Unit in the Department of Home Affairs. It has been flagged that an Anti-Slavery Commissioner will be an issue considered at the 3-year review.	Independent Anti-Slavery Commissioner.
Publication of Statement	Must be published on their website and a link to the slavery and human trafficking statement in a prominent place on the website's homepage. If the organisation does not have a website, it must provide a copy of their statement to anyone who makes a written request for one, within 30 days beginning with the day on which the request is received.	Yes, the Minister is to maintain a register of modern slavery statements, to be known as the Modern Slavery Statements Register. The Register must be made available for public inspection, without charge, on the internet. ^{xvii}	Statement to be published as prescribed by regulations.
Penalties for non-compliance	Injunction.	No financial penalties at this time, however: <ul style="list-style-type: none"> o The Minister has powers to request an entity explain why they have not complied, require an entity to give a statement and in a failure to do so, publish the identity of the entity and their failure. There is an avenue for appeal of any such publication through the Administrative Appeals Tribunal.^{xviii} It has been flagged that the potential inclusion of financial/criminal penalties will be considered in the 3-year review.	Penalties of up to 10,000 penalty units ^{xix} will apply for non-compliance and for any false or misleading statements.
Review	None. ^{xx}	Every 3 years. ^{xxi}	The Commissioner has the power to recommend changes to modern slavery legislation in annual reports.
Offences	S30 of the <i>Modern Slavery Act 2005</i> .	Relevant Acts, Protocols and Conventions: <ul style="list-style-type: none"> o <i>Criminal Code Act 1995 (Cth)</i> - S270-271; 	Relevant Acts: <ul style="list-style-type: none"> o <i>Crimes Act 1900</i> - S80D, 80E, 91G,91H,

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		<ul style="list-style-type: none"> o Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children- Article 3;^{xxii} and o ILO Convention (no. 182) - Article 4.^{xxiii} 	<ul style="list-style-type: none"> o 91HAA, 93AB, 93A; o <i>Human Tissue Act</i> 1983 - S32; and o <i>Criminal Code Act</i> 1995 (Cth) - S270-271.^{xxiv}
Guidance Material	http://www.legislation.gov.uk/ukpga/2015/30/notes/contents	https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id:%22legislation/billhome/r6148%22	https://www.parliament.nsw.gov.au/bill/files/3488/XN%20Modern%20Slavery%20Bill%202018.pdf

ⁱ On 28 June 2018 the Commonwealth Government introduced the *Modern Slavery Bill* into the Federal Parliament: <https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id:%22legislation/billhome/r6148%22>.

ⁱⁱ The *NSW Modern Slavery Bill* was passed on 27 June 2018 and is awaiting commencement to be determined by proclamation: <https://www.parliament.nsw.gov.au/bills/Pages/bill-details.aspx?pk=3488>.

ⁱⁱⁱ Reporting requirements are contained under Section 54.

^{iv} The Commonwealth, a corporate Commonwealth entity and Commonwealth Companies are also required to report. (*Modern Slavery Bill* 2018, S5).

^v *Modern Slavery Bill* 2018, Section 16.

^{vi} *Modern Slavery Act* (NSW), Section 24(5).

^{vii} The Bill states that entities 'must' report on each of the criteria listed. However, given there is no penalty for non-compliance, it is difficult to see how it is 'mandatory.'

^{viii} *Modern Slavery Act* (NSW), Section 24(8).

^{ix} *Modern Slavery Bill*, Section 10.

^x *Modern Slavery Act* (NSW), Section 4.

^{xi} The only mention of the word "entity" within the Act is as part of the definition for partnership under Section 54(12).

^{xii} "Entity" is not defined in the *Modern Slavery Act 2018*; however it has the same meaning as the *Income Tax Assessment Act* 1997. The Act also uses the phrase reporting entity, which is defined in Section 5 and Section 960.100.

^{xiii} Within the meaning of the Public Governance, *Performance and Accountability Act* 2013.

^{xiv} *Modern Slavery Bill* 2018, Section 6 relates to voluntary modern slavery statements.

^{xv} *Modern Slavery Act* 2015, Section 54(2).

^{xvi} Within the meaning of Section 57A of the *Corporations Act* 2001 of the Commonwealth.

^{xvii} *Modern Slavery Bill* 2018, Section 18-19.

^{xviii} *Modern Slavery Bill*, Section 16A.

^{xix} Currently \$1,100,000 Australian Dollars.

^{xx} On 30 July 2018 Home office announced it plans to launch an independent review of the *Modern Slavery Act* 2015: <https://www.gov.uk/government/organisations/home-office/about>.

^{xxi} *Modern Slavery Bill*, Section 24.

^{xxii} *Supplementing the United Nations Convention against Transnational Organized Crime*, done at New York on 15 November 2000 ([2005] ATS 27).

^{xxiii} *Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour*, done at Geneva on 19 June 1999, ([2007] ATS 38).

^{xxiv} *Modern Slavery Bill* 2018, Schedule 2.