

## Canada's Fighting Against Forced Labour and Child Labour in Supply Chains Act Goes Into Effect Soon

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On May 11, 2023, Canada passed the *Fighting Against Forced Labour and Child Labour in Supply Chains Act* (Bill S-211), which will take effect on January 1, 2024 (the "Act").

The purpose of this Act is to implement Canada's international commitment to fighting forced and child labor through reporting obligations on (a) government institutions<sup>[1]</sup> producing, purchasing, or distributing goods in Canada or elsewhere; and (b) entities<sup>[2]</sup> producing goods in Canada or elsewhere or importing goods produced outside of Canada.

The Act sets forth reporting obligations for government institutions and other entities, both of which must submit their first report to the Minister (defined below) by May 31, 2024.

The Act requires each entity and government institution to, on or before May 31 of each year, report to the Minister of Public Safety and Emergency Preparedness ("Minister") the steps it has taken

during the previous financial year to prevent and reduce the risk that forced or child labor is: (i) for each entity, used at any step of production, or (ii) for government institutions, used at any step of the production of goods produced, purchased, or distributed by the government institution.

The entity's or government institution's report must include the following information:

- (a) its structure, activities, and supply chains;
- (b) its policies and due diligence processes in relation to forced and child labor;
- (c) the parts of its activities and supply chains that carry a risk of forced or child labor and the steps taken to assess and manage that risk;
- (d) any measures taken to remediate any forced or child labor;
- (e) any measures taken to remediate the loss of income to the most vulnerable families resulting from any measures taken to eliminate forced or child labor in its activities and supply chains;
- (f) the training provided to employees on forced and child labor; and
- (g) how the entity or government institution assesses its effectiveness in ensuring that forced and child labor are not being used in its activities and supply chains.

Each entity and government institution must make its report available to the public by publishing it in a prominent place on the

entity's or government institution's website.

Similarly, the Minister must maintain an electronic registry containing a copy of every report provided to the Minister and the registry must be made available to the public on the Department of Public Safety and Emergency Preparedness website.

Additionally, any entity incorporated under the [Canada Business Corporations Act](#) or any other Act of Parliament must provide the report or revised report to each shareholder, along with its annual financial statements. For each entity, its report must be approved by its governing body.

Every person or entity that fails to comply with the Act's reporting, posting, or remedial requirements, is guilty of an offense punishable on summary conviction and a fine of not more than \$250,000. Additionally, every person or entity that knowingly makes any false or misleading statement or knowingly provides false or misleading information to the Minister or a person designated under Section 14 of the Act is guilty of an offense punishable on summary conviction and liable to a fine of not more than \$250,000.

Canada is not the only country implementing a law to safeguard human rights; the US and Germany have similar laws as well.

The US enacted the Uyghur Forced Labor Prevention Act, which went into effect on June 21, 2022 to address human rights issues that may impact goods imported into the US. The Uyghur Forced Labor Prevention Act creates a rebuttable presumption that "any goods, wares, articles, and merchandise mined, produced, or manufactured wholly or in part in the Xinjiang Uyghur Autonomous Region of the People's Republic of China" (or by an entity

included on a list required by the Uyghur Forced Labor Prevention) are prohibited from importation into the US under 19 U.S.C. §1307. Unlike Canada's Act, the Uyghur Forced Labor Prevention Act does not require government institutions or entities to proactively report about its supply chain.

Similarly, on January 1, 2023 Germany's Act on Corporate Due Diligence Obligations in Supply Chains took effect. Germany's Act on Corporate Due Diligence Obligations in Supply Chains is limited to companies that employ at least 3,000 employees, however, companies that employ at least 1,000 employees will be required to comply starting January 1, 2024. The German Act obliges companies to observe human rights and environmental due diligence obligations, which include the following: (1) the establishment of a risk management system, (2) the internal designation of responsibilities, e.g. appointing a human rights officer, (3) the performance of regular risk analyses, (4) the adoption and communication of human rights policies, (5) the establishment of preventive measures in its own business area and vis-à-vis direct suppliers, (6) taking remedial action in the event of a violation of a protected legal position, (7) the establishment of a complaints procedure, (8) the implementation of due diligence measures with regard to risks at indirect suppliers, and (9) documentation and reporting to the authorities.

[1] Per the Act, "government institution" has the same meaning as in section 3 of the [Access to Information Act](#), which defines "government institution" as: (a) any department or ministry of state of the Government of Canada, or any body or office, listed in Schedule I of the [Access to Information Act](#), and (b) any parent Crown corporation, and any wholly-owned subsidiary of such a corporation, within the meaning of section 83 of the [Financial Administration Act](#).

[2] Per the Act, “entity” means a corporation or a trust, partnership or other unincorporated organization that: (a) is listed on a stock exchange in Canada; (b) has a place of business in Canada, does business in Canada or has assets in Canada and that, based on its consolidated financial statements, meets at least two of the following conditions for at least one of its two most recent financial years: (i) it has at least \$20 million in assets, (ii) it has generated at least \$40 million in revenue, and (iii) it employs an average of at least 250 employees; or (c) is prescribed by regulations.

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