The UK Modern Slavery Act 2015

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The UK Modern Slavery Act is an effort by the government to end all forms of labour exploitation.

The UK’s Modern Slavery Act 2015 aims to prevent all forms of labour exploitation and increase transparency of labour practices in supply chains. Starting this month, the government will require all commercial organisations that operate in the UK with an annual turnover of £36 million or more to prepare a Slavery and Human Trafficking Statement for each financial year. The government is due to publish details of the transitional provisions applicable to organisations whose financial year ends soon after October.

Modern Slavery

Following the UN’s Palermo Protocol in 2000, anti-slavery legislation across the globe has increased. In July 2015, the UK enacted the Modern Slavery Act 2015 (the Act) and Kevin Hyland was appointed as the first UK anti-slavery commissioner. His role is independent of the government, and he will be required to provide annual reports to Parliament.

Labour exploitation is the second most common form of modern slavery in the UK after slavery for sexual exploitation purposes. For commercial organisations, the most relevant forms of labour exploitation are

- **Bonded labour**, where an individual is forced to pay off a “loan” to a lender by providing services (directly to the lender or to a third party that pays the lender on an individual’s behalf).

- **Abusive labour**, where an individual (often someone who has been trafficked and does not have requisite permission to work in a jurisdiction) is employed for less than minimum wage and required to work in poor conditions that do not meet legally required health and safety standards.

Such employees typically are either provided as agency workers by unscrupulous employment agencies or engaged by suppliers or subcontractors, not necessarily in the UK, but as part of international labour supply chains.

Slavery and Human Trafficking Statement

The Act requires that commercial organisations that: operate entirely or partly in the UK, supply goods or services, and have a minimum annual total turnover of £36 million net (considered to be “large” organisations under UK corporate law) must publish a Slavery and Human Trafficking Statement for each financial year.

The requirement applies to organisations that operate in the UK or partly operate in the UK but not to subsidiary or sister companies that operate wholly outside the UK.

The Slavery and Human Trafficking Statement must describe the steps taken (if any) by an organisation to ensure that there are no forms of modern slavery in the organisation’s business or in its supply chains. The Slavery and Human Trafficking Statement can also include information about five key areas of the business:

1. Its business model and supply chain arrangements, including any outsourced services and suppliers of goods.

2. Any policies relating to modern slavery, such as ethics and compliance policies.
3. Any training to deal with modern slavery issues for the organisation's personnel, and any training provided to supply chain members.

4. Any principle risks identified by due diligence or audits and details of how such risks are managed in the organisation and supply chain.

5. Key performance indicators of the effectiveness of the steps taken to deal with any modern slavery risks identified by the organisation.

Under the Act, an organisation is under no obligation to take any steps to ensure that modern slavery is not taking place in the organisation's business and its supply chains. If no such steps have been taken, however, the organisation's reputation is likely to suffer especially if competitors do publish statements indicating that positive steps are being taken to prevent modern slavery. Similarly, there is no obligation to describe any of the above five areas in the statement, and many organisations may not have in-place policies or training programmes that deal with modern slavery. Dealing with modern slavery issues should form part of large commercial organisations’ corporate governance policies. The government’s goal is for large commercial organisations to make a senior management-level commitment to eliminate and prevent modern slavery issues in their businesses.

The Slavery and Human Trafficking Statement must be approved by a board of directors (or equivalent) and signed by a director (or equivalent) of an organisation. The Slavery and Human Trafficking Statement must be published on an organisation’s website, and a link to it must be prominently displayed on the home page.

Statutory guidance on the contents of the Slavery and Human Trafficking Statement is awaited from the government.

The government has said that this requirement will take effect in October 2015, but the specific date has not yet been confirmed. The government will also issue transitional provisions for organisations with a financial year end shortly after October. If organisations breach this requirement, the secretary of state can bring proceedings for injunctive relief.

**Practical Steps**

In preparing to complete the Slavery and Human Trafficking Statement, affected organisations should consider the following steps:

- Identify each relevant member of the labour supply chain. This includes employment agencies, suppliers of goods, third-party vendors providing services to the organisation, subcontractors of such vendors, and nonemployed workers of supply chain members. In complex and, often, multijurisdictional supply chains, this process could take time if the information is not readily available.

- Assess how, if at all, the business discusses labour issues with its supply chain members in advance of being engaged; examples include during the tendering process, in background checks, and due diligence on vendors and suppliers.

- Understand what risks assessments are undertaken by the organisation to identify modern slavery red flags, such as assessing industry and jurisdictional factors.

- Assess what, if any, steps are being taken within the organisation and its supply chain to deal with modern slavery risks, such as due diligence on employment agencies, suppliers of goods, and third-party vendors to whom services are outsourced. There may be contractual provisions expressly requiring the third party to comply with minimum employment laws or ethical employment policies of the organisation. There may also be rights of audit and monitoring of risks or investigation rights if issues arise. Additionally, there may be self-reporting requirements if breaches occur by the supply chain members.

- Ascertain what, if any, training or policies exist for personnel of the business and its supply chain members. Compliance managers are often given business-ethics training encompassing labour exploitation, and they should consider the need to roll out such training further down the supply chain.

- Prepare a risk-mitigation strategy dealing with any identified risks or issues. Consider auditing red-flagged supply chain members.

- Discuss the key risks with relevant stakeholders and, if necessary, involve communications teams to prepare a public message in conjunction with the Slavery and Human Trafficking Statement being issued.

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