



**Australian
BORDER FORCE**

Review of the *Modern Slavery Act 2018 (Cth)* Terms of Reference

Objective

The review will consider the operation of the Commonwealth *Modern Slavery Act 2018* (the Act) over the first three years and whether any additional measures are necessary or desirable to improve compliance with the Act and the operation of the Act.

Context

Modern slavery practices are major violations of human rights and serious crimes. Modern slavery practices include trafficking in persons, slavery, and slavery-like practices including forced labour, servitude, debt bondage, deceptive recruiting, forced marriage, and the worst forms of child labour. The Commonwealth Modern Slavery Act established Australia's national Modern Slavery Reporting Requirement. The Act was established through extensive consultations with the Australian business community and civil society, including investors. The Australian Parliament passed the Act on 29 November 2018 and the reporting requirement came into effect on 1 January 2019.

The reporting requirement is focused on large businesses, the Commonwealth, and other entities that have capacity and leverage to drive change throughout their supply chains. Under the *UN Guiding Principles on Business and Human Rights*, entities have a responsibility to respect human rights in their operations and supply chains, including taking action to prevent, mitigate and where appropriate, remedy modern slavery in entity operations and supply chains.

Three years after the commencement of the Act, the Government is undertaking this statutory review in accordance with Section 24 of the Act.

The Modern Slavery Act is one part of Australia's broader response to modern slavery domestically and overseas. It complements Australia's existing criminal justice response to modern slavery, which includes a National Action Plan to Combat Modern Slavery, specialist police investigative teams and a dedicated victim support program.

Matters to be considered by the review

1. The review is to consider and report on:
 - a) the operation of the Act and any rules over the period of 3 years after the Act's commencement;
 - b) compliance with the Act over that period;
 - c) whether additional measures to improve compliance with the Act are necessary or desirable, such as civil penalties for failure to comply with the requirements of the Act;
 - d) whether a further review of the Act should be undertaken, and if so, when;
 - e) whether it is necessary or desirable to do anything else to improve the operation of the Act and any rules; and

- f) whether the Act should be amended to implement review recommendations.
2. The review should also have regard to:
 - a) the extent to which the mandatory reporting criteria set out in Section 16 of the Act are appropriate;
 - b) the appropriateness of the \$100 million reporting entity threshold, reporting periods and reporting deadlines; and
 - c) whether it is necessary or desirable for an independent body, such as an Anti-Slavery Commissioner, to oversee the implementation of the Act and/or the enforcement of the Act.
 3. The review will look specifically at the Australian context with respect to available legal frameworks and powers. Noting this, the review will consider relevant international legislation to consider whether reporting requirements may be harmonised across jurisdictions where feasible.

Conduct of the review

The review will draw on a range of sources. The review will:

- Provide an Issues Paper for public consultation.
- Invite submissions on matters for consideration in the review.
- Meet with stakeholders on specific matters arising from the Issues Paper and submissions.
- Consider related research and reports, including, but not limited to:
 - The following Parliamentary Joint Standing Committee on Foreign Affairs, Defence and Trade (JSCFADT) reports, and the October 2020 Australian Government response to the JSCFADT reports:
 - *Hidden in Plain Sight: An inquiry into establishing a Modern Slavery Act in Australia*; and
 - *Modern Slavery and Global Supply Chains: Interim report of the Joint Standing Committee on Foreign Affairs, Defence and Trade's inquiry into establishing a Modern Slavery Act in Australia*.

Reviewer

The review will be undertaken by Professor John McMillan, AO, supported by the Australian Border Force.

Timing and Outcomes

The review will commence on 31 March 2022 and will be completed within 12 months after it starts.

A review report will be publicly available and tabled in each House of the Australian Parliament within 15 sitting days of that House after the completion of the report.