



Australian  
Human Rights  
Commission

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# National Action Plan to Combat Modern Slavery 2020-24

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Submission to the Australian Border Force's National Action Plan  
2020-24: Public Consultation Paper

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## 1 Introduction

1. The Australian Human Rights Commission is Australia's legislatively-mandated national human rights institution.<sup>1</sup> The Commission provides independent and impartial services to promote and protect human rights and fundamental freedoms, and address discrimination.<sup>2</sup>
2. The Commission's statutory responsibilities include contributing to policy and legislative development on fundamental human rights issues.<sup>3</sup> The Commission does this through engagement with stakeholders and by encouraging government, industry and community groups alike to see fundamental rights and freedoms realised.
3. Modern slavery is a significant global human rights issue. Global Slavery Index estimates that 40.3 million people are living in modern slavery globally, including 15,000 people in Australia.<sup>4</sup> Australian supply chains are well documented as being closely linked with businesses in the Asia-Pacific region, where it is estimated that over two thirds of the victims of modern slavery are based.<sup>5</sup> When passing the *Modern Slavery Act 2018* (Cth), the Government noted that there is 'high risk Australian businesses are exposed to modern slavery risks and that Australian goods and services are tainted by modern slavery'.<sup>6</sup>
4. Business and human rights is one of the Commission's key priority areas. The Commission remains committed to delivering strategic policy and project outcomes to address modern slavery and business and human rights issues across a broad range of sectors.

## 2 ***Modern Slavery Act 2018* (Cth)**

5. The Commission welcomes and commends the Australian Government on the implementation of the *Modern Slavery Act 2018* (Cth).
6. However, The Commission notes that the *Modern Slavery Act 2018* does not establish an independent oversight mechanism or financial penalties for entities that do not comply with reporting requirements. In the Commission's view the Australian Government should address these gaps in order to ensure the effectiveness of the *Modern Slavery Act 2018* (Cth).<sup>7</sup>
7. The Commission also supports the development of strong drivers towards compliance including the imposition of financial penalties on reporting entities for non-compliance.

8. The lack of penalty provisions in *Modern Slavery Act 2018* (Cth) weakens the ability of the legislation to drive genuine compliance and commitment from the business sector. Developments in other jurisdictions lend support to this view. The *Modern Slavery Act 2018* (NSW) provides for penalties of \$1 million for businesses that fail to prepare a modern slavery statement, fail to publish a modern slavery statement in accordance with the regulations, or report false or misleading information.<sup>8</sup>
9. In previous submissions, the Commission referred to the lack of penalties for non-compliance under the *Modern Slavery Act 2015*, UK (UK Act).<sup>9</sup> Many entities captured by the reporting requirement under the UK Act failed to report or failed to report adequately.<sup>10</sup>
10. In 2018-2019 an Independent Review of the UK Act was undertaken by three members of the UK Parliament, with support from a team of expert advisers, at the request of the UK Home Secretary. The final Independent Review Report of the UK Act (May 2019),<sup>11</sup> recommended the gradual introduction of sanctions for entities failing to publish a modern slavery statement over the next few years, supported by an enforcement body.<sup>12</sup> Following the Independent Review, the UK Government conducted a public consultation in September 2019 on the introduction of civil penalties.<sup>13</sup> The UK Government has not yet published its response to the consultation.
11. The Commission still considers it important to establish an independent oversight mechanism with responsibility for increasing awareness of modern slavery and providing guidance, training and resources to support compliance with the reporting requirement.
12. The Commission has previously recommended that an independent Anti-Slavery Commissioner be established.<sup>14</sup> For example, the UK Independent Anti-Slavery Commissioner engages with the private, public and civil society sectors to 'support the exchange for best practice and push for collaboration'.<sup>15</sup> Similarly, the *Modern Slavery Act 2018* (NSW) establishes an Anti-Slavery Commissioner, with functions including:
  - advocating for and promoting action to combat modern slavery
  - identifying and providing assistance and support for victims of modern slavery
  - co-operating with government and non-government agencies and other bodies to combat modern slavery and provide assistance to victims
  - monitoring the effectiveness of legislation and government policies and action in combatting modern slavery

- developing guidance to assist government and non-government agencies to deal with modern slavery risks in supply chains
  - monitoring the effectiveness of the steps taken by public sector agencies to address modern slavery risks in their supply chains, and
  - raising public awareness about modern slavery including through the provision of advice, education and training and a modern slavery hotline.
13. Modern slavery risks are widely documented as being ‘hidden in plain sight’ and it is difficult to identify risks across supply chains that span across different industries.<sup>16</sup> Effective partnerships between public, private and community sectors are critical to ensuring that all sectors work together and open communication channels to collectively eliminate risks in supply chains.
14. An Australian Independent Anti-Slavery Commissioner would promote collaboration between private, public and community sectors in identifying and responding to modern slavery risks in supply chains, raise awareness of modern slavery and contribute to oversight of the legislation.
15. As the Australian National Human Rights Institution, with an independent mandate, the Commission can attest to the benefit that an independent role provides in achieving progressive dialogue with multi-stakeholder participants.

**Recommendation 1: The Australian Government strengthen the *Modern Slavery Act 2018 (Cth)* including by:**

- **establishing an independent Anti-Slavery Commissioner whose functions include awareness raising, monitoring and oversight of the *Modern Slavery Act 2018 (Cth)***
- **introducing financial penalties for entities that do not comply with reporting requirements**
- **providing adequate funding for review and oversight of modern slavery statements.**

### **3 National Action Plan 2020–24**

16. The Commission commends the Australian Government for the development of its initial National Action Plan to Combat Human Trafficking and Slavery 2015–19.

17. The Commission welcomes the 12 proposed goals for the 2020–24 Plan set out in the National Action Plan Consultation Paper (12 proposed goals), being:<sup>17</sup>

- 1. maintain and promote compliance with international standards on modern slavery*
- 2. engage the Australian community to understand and combat modern slavery*
- 3. promote an evidence-based response to modern slavery*
- 4. maintain a robust and comprehensive legislative framework to combat modern slavery*
- 5. train frontline officials to support the identification of victims and effective investigations of modern slavery*
- 6. progress effective prosecutions to secure convictions against offenders*
- 7. enhance our response to combat forced marriage*
- 8. enhance our response to combating serious forms of labour exploitation, including forced labour and deceptive recruiting*
- 9. promote transparency and accountability for combating modern slavery risks in global supply chains, including in Government procurement*
- 10. provide appropriate support, protections and remedies to empower victims of modern slavery*
- 11. enhance our leadership and partnerships to promote regional and international cooperation on combating modern slavery, and*
- 12. work collaboratively across government, along with non-government stakeholders, to combat modern slavery.*

18. However, the Commission considers that the 2020–24 Plan could be strengthened in a number of ways.

**Recommendation 2: The Australian Government’s National Action Plan on Modern Slavery 2020–2024 should implement the 12 proposed goals, and should include the following, developed with civil society input:**

- **a monitoring and evaluation framework with timelines**

- **a data collection framework, which draws on international best practice to inform an evidence-based approach to modern slavery responses**
- **the provision of training and policy direction to ensure that a victim-centred, trauma-informed and human rights-based approach to responding to modern slavery is employed consistently by public sector agencies**
- **the development of localised strategies for identifying and responding to modern slavery, which promote strategic collaboration with local stakeholders including state-based agencies, civil society and frontline services such as health, education or labour inspection**
- **the establishment of an anti-slavery hotline based on international best practice, to identify and support victims and reveal modern slavery hotspots.**

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<sup>1</sup> Australian Human Rights Commission Act 1986 (Cth) s 10A

<sup>2</sup> Australian Human Rights Commission, *About the Commission* at <https://www.humanrights.gov.au/about-commission-0> (viewed 21 June 2018).

<sup>3</sup> Australian Human Rights Commission Act 1986 (Cth) s 11

<sup>4</sup> Global Slavery Index, *The Global Slavery Index 2018*, (28 August 2019), 4, 29 at <https://www.globalslaveryindex.org/> (viewed 20 April 2020)

<sup>5</sup> Mr Dean Wickham, *Committee Hansard*, Mildura, 30 October 2017, p. 49

<sup>6</sup> Parliament of the Commonwealth of Australia, *Modern Slavery Bill 2018: Explanatory Memorandum*, (2018), [5]

<sup>7</sup> Australian Human Rights Commission, *Submission to the Attorney-General's Department, Modern Slavery in Supply Chains Reporting Requirement Consultation* (20 October 2017) at <https://www.aph.gov.au/DocumentStore.ashx?id=2991f98f-df3a-4515-b3ec-70a9c7ddb4f6&subId=657841> (viewed 4 February 2020); Australian Human Rights Commission, *Statement of Support for an Australian Modern Slavery Act (2017)* at <https://www.humanrights.gov.au/our-work/rights-and-freedoms/publications/statement-support-australian-modern-slavery-act-2017> (viewed on 14 January 2020); Australian Human Rights Commission, *Submission to the Senate Legal and Constitutional Affairs Legislation Committee, Inquiry into the Modern Slavery Bill 2018* at <https://www.aph.gov.au/DocumentStore.ashx?id=147d8979-5592-4eba-b17e-43d12916741c&subId=613538> (viewed 14 January 2020); Joy Ngozi Ezeilo, *Report of the Special*

*Rapporteur on trafficking in persons, especially women and children, on her mission to Australia*, UN Doc A/HRC/20/18/Add.1 (18 May 2012), 16 at <https://undocs.org/A/HRC/20/18/Add.1> (viewed 14 January 2020); and Joint Standing Committee on Foreign Affairs, Defence and Trade, Parliament of Australia, *Hidden in Plain Sight: An inquiry into establishing a Modern Slavery Act in Australia* (2017), pp. 164-179

<sup>8</sup> *Modern Slavery Act 2018* (NSW), s 24

<sup>9</sup> Australian Human Rights Commission, Submission to the Attorney-General's Department, Modern Slavery in Supply Chains Reporting Requirement Consultation, 20 October 2017, 3

<sup>10</sup> ABC, *Parliament urged to introduce strong penalties to crack down on modern slavery* (2017) at <http://www.abc.net.au/radio/programs/pm/parliament-urged-to-introduce-strong-penalties-to/8768422> (viewed 9 October 2017)

<sup>11</sup> Secretary of State for the Home Department (UK), *Independent Review of the Modern Slavery Act 2015: Final Report*, (May 2019) at [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/803406/Independent\\_review\\_of\\_the\\_Modern\\_Slavery\\_Act\\_-\\_final\\_report.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/803406/Independent_review_of_the_Modern_Slavery_Act_-_final_report.pdf)

<sup>12</sup> Secretary of State for the Home Department (UK), *Independent Review of the Modern Slavery Act 2015: Final Report*, (May 2019) at [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/803406/Independent\\_review\\_of\\_the\\_Modern\\_Slavery\\_Act\\_-\\_final\\_report.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/803406/Independent_review_of_the_Modern_Slavery_Act_-_final_report.pdf).

<sup>13</sup> UK Government, *2019 UK Annual Report on Modern Slavery October 2019*, (2019), p. 5 at [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/840059/Modern\\_Slavery\\_Report\\_2019.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/840059/Modern_Slavery_Report_2019.pdf)

<sup>14</sup> Australian Human Rights Commission, Submission to the Attorney-General's Department, Modern Slavery in Supply Chains Reporting Requirement Consultation, 20 October 2017, 3.

<sup>15</sup> Independent Anti-Slavery Commissioner, United Kingdom, *Annual Report 2016-2017* (2017) 33.

<sup>16</sup> Joint Standing Committee on Foreign Affairs, Defence and Trade, Parliament of Australia, *Hidden in Plain Sight-Inquiry into establishing a modern slavery act in Australia* (2017) 56 [3.97]-[3.98]

<sup>17</sup> Australian Border Force, *National Action Plan to Combat Modern Slavery 2020-24: Public Consultation Paper*, (December 2019) at <https://www.homeaffairs.gov.au/reports-and-pubs/files/combat-modern-slavery-2020-24-consultation-paper.pdf>