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Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

Modern Slavery Bill 2018

No. , 2018

(Home Affairs)

A Bill for an Act to require some entities to report on the risks of modern slavery in their operations and supply chains and actions to address those risks, and for related purposes

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1 **A Bill for an Act to require some entities to report**
2 **on the risks of modern slavery in their operations**
3 **and supply chains and actions to address those**
4 **risks, and for related purposes**

5 The Parliament of Australia enacts:

6 **Part 1—Preliminary**
7

8 **1 Short title**

9 This Act is the *Modern Slavery Act 2018*.

Section 2

1 **2 Commencement**

2 (1) Each provision of this Act specified in column 1 of the table
3 commences, or is taken to have commenced, in accordance with
4 column 2 of the table. Any other statement in column 2 has effect
5 according to its terms.
6

Commencement information

Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Sections 1 and 2 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	
2. Sections 3 to 10 and Parts 2 to 4	A single day to be fixed by Proclamation. However, if the provisions do not commence within the period of 6 months beginning on the day this Act receives the Royal Assent, they commence on the day after the end of that period.	

7 Note: This table relates only to the provisions of this Act as originally
8 enacted. It will not be amended to deal with any later amendments of
9 this Act.

10 (2) Any information in column 3 of the table is not part of this Act.
11 Information may be inserted in this column, or information in it
12 may be edited, in any published version of this Act.

13 **3 Simplified outline of this Act**

14 This Act requires entities based, or operating, in Australia, which
15 have an annual consolidated revenue of more than \$100 million, to
16 report annually on the risks of modern slavery in their operations
17 and supply chains, and actions to address those risks. Other entities
18 based, or operating, in Australia may report voluntarily.

1 The Commonwealth is required to report on behalf of
2 non-corporate Commonwealth entities, and the reporting
3 requirements also apply to Commonwealth corporate entities and
4 companies with an annual consolidated revenue of more than \$100
5 million.

6 Reports are kept by the Minister in a public repository known as
7 the Modern Slavery Statements Register. Statements on the register
8 may be accessed by the public, free of charge, on the internet.

9 **4 Definitions**

10 In this Act:

11 *accounting standards* has the same meaning as in the
12 *Corporations Act 2001*.

13 *Australia*, when used in a geographical sense, includes the external
14 Territories.

15 *Australian entity* means:

- 16 (a) a company which is a resident within the meaning of
17 subsection 6(1) of the *Income Tax Assessment Act 1936*; or
18 (b) a trust, if the trust estate is a resident trust estate within the
19 meaning of Division 6 of Part III of the *Income Tax*
20 *Assessment Act 1936*; or
21 (c) a corporate limited partnership which is a resident within the
22 meaning of section 94T of the *Income Tax Assessment Act*
23 *1936*; or
24 (d) any other partnership, or other entity, whether incorporated
25 or unincorporated, if:
26 (i) the entity is formed or incorporated within Australia; or
27 (ii) the central management or control of the entity is in
28 Australia.

29 *carries on business in Australia*: see section 5 (meaning of
30 *reporting entity*).

31 *consolidated revenue*, of an entity, means:

Section 4

- 1 (a) the total revenue of the entity, for a reporting period; or
2 (b) if the entity controls another entity or entities—the total
3 revenue of the entity and all of the controlled entities,
4 considered as a group, for a reporting period of the
5 controlling entity;
6 worked out in accordance with the accounting standards, even if
7 those standards do not otherwise apply to such an entity (including
8 a controlling entity) or group.

9 **control**, of an entity by another entity, means control of the entity
10 within the meaning of the accounting standards.

11 **entity** has the same meaning as in the *Income Tax Assessment Act*
12 *1997*.

13 Note: See section 960-100 of that Act.

14 **modern slavery** means conduct which would constitute:

- 15 (a) an offence under Division 270 or 271 of the *Criminal Code*;
16 or
17 (b) an offence under either of those Divisions if the conduct took
18 place in Australia; or
19 (c) trafficking in persons, as defined in Article 3 of the Protocol
20 to Prevent, Suppress and Punish Trafficking in Persons,
21 Especially Women and Children, supplementing the United
22 Nations Convention against Transnational Organized Crime,
23 done at New York on 15 November 2000 ([2005] ATS 27);
24 or
25 (d) the worst forms of child labour, as defined in Article 3 of the
26 ILO Convention (No. 182) concerning the Prohibition and
27 Immediate Action for the Elimination of the Worst Forms of
28 Child Labour, done at Geneva on 17 June 1999 ([2007] ATS
29 38).

30 Note: In 2018, the text of international agreements in the Australian Treaty
31 Series was accessible through the Australian Treaties Library on the
32 AustLII website (<http://www.austlii.edu.au>).

33 **modern slavery statement**: see section 12.

34 **principal governing body**, of an entity, means:

- 1 (a) the body, or group of members of the entity, with primary
 2 responsibility for the governance of the entity; or
 3 (b) if the entity is of a kind prescribed by rules made for the
 4 purposes of this paragraph—a prescribed body within the
 5 entity, or a prescribed member or members of the entity.

6 Example: Examples of principal governing bodies are as follows:

- 7 (a) for a company—the company’s board of directors;
 8 (b) for a superannuation fund—the fund’s board of trustees.

9 **register** means the Modern Slavery Statements Register established
 10 under section 18.

11 **reporting entity**: see section 5.

12 **reporting period**, of an entity, means a financial year, or another
 13 annual accounting period applicable to the entity, which starts after
 14 the commencement of this section.

15 Example: For a company’s reporting period, see section 319 of the *Income Tax*
 16 *Assessment Act 1936*.

17 **responsible member**, of an entity, means:

- 18 (a) an individual member of the entity’s principal governing
 19 body who is authorised to sign modern slavery statements for
 20 the purposes of this Act; or
 21 (b) if the entity is a trust administered by a sole trustee—that
 22 trustee; or
 23 (c) if the entity is a corporation sole—the individual constituting
 24 the corporation; or
 25 (d) if the entity is under administration within the meaning of the
 26 *Corporations Act 2001*—the administrator; or
 27 (e) if the entity is of a kind prescribed by rules made for the
 28 purposes of this paragraph—a prescribed member of the
 29 entity.

30 **rules** means rules made by the Minister under section 25.

31 5 Meaning of *reporting entity*

- 32 (1) Each of the following is a **reporting entity** in relation to a reporting
 33 period:

Section 6

- 1 (a) an entity which has a consolidated revenue of at least \$100
2 million for the reporting period, if the entity:
3 (i) is an Australian entity at any time in that reporting
4 period; or
5 (ii) carries on business in Australia at any time in that
6 reporting period;
7 (b) the Commonwealth;
8 (c) a corporate Commonwealth entity, or a Commonwealth
9 company, within the meaning of the *Public Governance,*
10 *Performance and Accountability Act 2013*, which has a
11 consolidated revenue of at least \$100 million for the
12 reporting period;
13 (d) an entity which has volunteered to comply with the
14 requirements of this Act under section 6 for that period.

15 Note: The Commonwealth is required to report on behalf of non-corporate
16 Commonwealth entities within the meaning of the *Public Governance,*
17 *Performance and Accountability Act 2013*: see section 15 of this Act.

- 18 (2) An entity *carries on business in Australia* if the entity:
19 (a) in the case of a body corporate—carries on business in
20 Australia, a State or a Territory within the meaning of the
21 *Corporations Act 2001* (see section 21 of that Act); or
22 (b) in any other case—would be taken to do so within the
23 meaning of that Act if the entity were a body corporate.

24 **6 Voluntary modern slavery statements**

25 *How an entity may volunteer*

- 26 (1) An entity covered by subsection (2) may volunteer to comply with
27 the requirements of this Act for a reporting period, or reporting
28 periods, by giving written notice to the Minister accordingly before
29 the end of the reporting period (or the earliest of the reporting
30 periods), in a manner and form approved by the Minister.

31 Note: An entity can volunteer under this section in relation to a reporting
32 period and all later reporting periods.

- 33 (2) An entity is covered by this subsection for a reporting period if the
34 entity, at any time in the reporting period:
-

- 1 (a) is an Australian entity; or
2 (b) carries on business in Australia.

3 *Revoking a notice*

- 4 (3) An entity may revoke a notice given under subsection (1), to the
5 extent that it applies in relation to a reporting period or periods, by
6 giving written notice accordingly to the Minister before the start of
7 the reporting period, or the earliest of the reporting periods.

8 **7 Constitutional basis**

- 9 (1) Without limitation, this Act relies on:
10 (a) the Commonwealth's legislative powers under the following
11 provisions of the Constitution:
12 (i) paragraph 51(i) (trade and commerce);
13 (ii) paragraph 51(xi) (census and statistics);
14 (iii) paragraph 51(xix) (aliens);
15 (iv) paragraph 51(xx) (corporations);
16 (v) paragraph 51(xxi) (marriage);
17 (vi) paragraph 51(xxvii) (immigration);
18 (vii) paragraph 51(xxix) (external affairs);
19 (viii) paragraph 51(xxxix) (incidental matters);
20 (ix) section 61 (the executive power); and
21 (b) any implied legislative powers of the Commonwealth.
- 22 (2) Without limiting subparagraph (1)(a)(vii), this Act's reliance on
23 the Commonwealth's legislative powers under paragraph 51(xxix)
24 of the Constitution is based on purposes including giving effect to
25 the following international agreements, as amended and in force
26 for Australia from time to time:
27 (a) the International Convention to Suppress the Slave Trade and
28 Slavery, done at Geneva on 25 September 1926 ([1927] ATS
29 11);
30 (b) the ILO Convention (No. 29) concerning Forced or
31 Compulsory Labour, done at Geneva on 28 June 1930
32 ([1933] ATS 21);

Section 8

- 1 (c) the Supplementary Convention on the Abolition of Slavery,
2 the Slave Trade, and Institutions and Practices similar to
3 Slavery, done at Geneva on 7 September 1956 ([1958] ATS
4 3);
- 5 (d) the International Covenant on Civil and Political Rights, done
6 at New York on 16 December 1966 ([1980] ATS 23);
- 7 (e) the Convention on the Elimination of All Forms of
8 Discrimination Against Women, done at New York on
9 18 December 1979 ([1983] ATS 9);
- 10 (f) the Convention on the Rights of the Child, done at New York
11 on 20 November 1989 ([1991] ATS 4);
- 12 (g) the Protocol to Prevent, Suppress and Punish Trafficking in
13 Persons, Especially Women and Children, supplementing the
14 United Nations Convention against Transnational Organized
15 Crime, done at New York on 15 November 2000 ([2005]
16 ATS 27);
- 17 (h) the Optional Protocol to the Convention on the Rights of the
18 Child on the Sale of Children, Child Prostitution and Child
19 Pornography, done at New York on 25 May 2000 ([2007]
20 ATS 6);
- 21 (i) the ILO Convention (No. 182) concerning the Prohibition
22 and Immediate Action for the Elimination of the Worst
23 Forms of Child Labour, done at Geneva on 17 June 1999
24 ([2007] ATS 38).

25 Note: In 2018, the text of international agreements in the Australian Treaty
26 Series was accessible through the Australian Treaties Library on the
27 AustLII website (<http://www.austlii.edu.au>).

28 **8 Act binds the Crown**

29 This Act binds the Crown in right of the Commonwealth.
30 However, it does not bind the Crown in right of a State, the
31 Australian Capital Territory or the Northern Territory.

32 **9 Extension to external Territories**

33 This Act extends to every external Territory.

1 **10 Extra-territorial application**

2 This Act extends to acts, omissions, matters and things outside
3 Australia.

1 **Part 2—Modern slavery statements**

2

3 **11 Simplified outline of this Part**

4

This Part requires modern slavery statements to be given annually to the Minister, describing the risks of modern slavery in the operations and supply chains of reporting entities and entities owned or controlled by those entities.

5

6

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8

The statements must also include information about actions taken to address those risks.

9

10

Joint modern slavery statements may be given on behalf of one or more reporting entities.

11

12

The Minister must prepare an annual modern slavery statement on behalf of all non-corporate Commonwealth entities.

13

14 **12 Meaning of *modern slavery statement***

15

A *modern slavery statement* is a statement prepared for the purposes of any of the following:

16

17

(a) section 13 (modern slavery statements for single reporting entities);

18

19

(b) section 14 (joint modern slavery statements);

20

(c) section 15 (Commonwealth modern slavery statements).

21 **13 Modern slavery statements for single reporting entities**

22

(1) A reporting entity must give the Minister a modern slavery statement for the entity, for a reporting period, unless a modern slavery statement has been given covering the entity for that period under section 14 (joint modern slavery statements) or 15 (Commonwealth modern slavery statements).

23

24

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26

27

(2) The reporting entity must ensure that the statement:

- 1 (a) complies with section 16; and
- 2 (b) is prepared in a form approved by the Minister; and
- 3 (c) is approved by the principal governing body of the entity;
- 4 and
- 5 (d) is signed by a responsible member of the entity; and
- 6 (e) is given to the Minister within 6 months after the end of the
- 7 reporting period for the entity, in a manner approved by the
- 8 Minister.

9 Note: The statement may be signed electronically: see section 10 of the
10 *Electronic Transactions Act 1999*.

11 **14 Joint modern slavery statements**

- 12 (1) An entity, other than the Commonwealth, may give the Minister a
13 modern slavery statement covering one or more reporting entities
14 (which may include the entity giving the statement), for a reporting
15 period for those reporting entities.
- 16 (2) The entity giving the statement must ensure that it:
 - 17 (a) complies with section 16; and
 - 18 (b) is prepared in a form approved by the Minister; and
 - 19 (c) is prepared in consultation with each reporting entity covered
20 by the statement; and
 - 21 (d) is approved by the principal governing body of:
 - 22 (i) each reporting entity covered by the statement; or
 - 23 (ii) an entity (the *higher entity*) which is in a position,
24 directly or indirectly, to influence or control each
25 reporting entity covered by the statement, whether or
26 not the higher entity is itself covered by the statement;
27 or
 - 28 (iii) if it is not practicable to comply with subparagraph (i)
29 or (ii)—at least one reporting entity covered by the
30 statement; and
 - 31 (e) is signed by a responsible member of:
 - 32 (i) if subparagraph (d)(i) applies—each reporting entity
33 covered by the statement; or
 - 34 (ii) if subparagraph (d)(ii) applies—the higher entity; or

Section 15

- 1 (iii) if subparagraph (d)(iii) applies—each reporting entity to
2 which the subparagraph applies; and
3 (f) is given to the Minister:
4 (i) within 6 months after the end of the reporting period for
5 the entities covered by the statement, in a manner
6 approved by the Minister; or
7 (ii) within a period prescribed by rules made for the
8 purposes of this subparagraph.

9 Note 1: The statement may be signed electronically: see section 10 of the
10 *Electronic Transactions Act 1999*.

11 Note 2: If subparagraph (d)(iii) applies, the statement must include an
12 explanation: see subsection 16(2).

13 **15 Commonwealth modern slavery statements**

- 14 (1) The Minister must prepare a modern slavery statement for the
15 Commonwealth, for a reporting period, covering all non-corporate
16 Commonwealth entities within the meaning of the *Public*
17 *Governance, Performance and Accountability Act 2013*.
18 (2) The Minister must ensure that the statement:
19 (a) complies with section 16; and
20 (b) is prepared within 6 months after the end of the reporting
21 period.

22 **16 Mandatory criteria for modern slavery statements**

- 23 (1) A modern slavery statement must, in relation to each reporting
24 entity covered by the statement:
25 (a) identify the reporting entity; and
26 (b) describe the structure, operations and supply chains of the
27 reporting entity; and
28 (c) describe the risks of modern slavery practices in the
29 operations and supply chains of the reporting entity, and any
30 entities that the reporting entity owns or controls; and
31 (d) describe the actions taken by the reporting entity and any
32 entity that the reporting entity owns or controls, to assess and

-
- 1 address those risks, including due diligence and remediation
2 processes; and
- 3 (e) describe how the reporting entity assesses the effectiveness
4 of such actions; and
- 5 (f) describe the process of consultation with:
- 6 (i) any entities that the reporting entity owns or controls;
7 and
- 8 (ii) in the case of a reporting entity covered by a statement
9 under section 14—the entity giving the statement; and
- 10 (g) include any other information that the reporting entity, or the
11 entity giving the statement, considers relevant.

12 Example: For paragraph (d), actions taken by an entity may include the
13 development of policies and processes to address modern slavery
14 risks, and providing training for staff about modern slavery.

- 15 (2) A modern slavery statement, other than a statement to be given
16 under section 15 (Commonwealth modern slavery statements),
17 must include:
- 18 (a) for a statement to be given under section 13 (modern slavery
19 statements for single reporting entities)—details of approval
20 by the principal governing body of the reporting entity; or
- 21 (b) for a statement to be given under section 14 (joint modern
22 slavery statements):
- 23 (i) details of approval by the relevant principal governing
24 body or bodies; and
- 25 (ii) if subparagraph 14(2)(d)(iii) applies—an explanation of
26 why it is not practicable to comply with
27 subparagraph 14(2)(d)(i) or (ii).

1 **Part 3—Access to modern slavery statements**

2

3 **17 Simplified outline of this Part**

4

This Part establishes the Modern Slavery Statements Register.

5

The register is made available to the public on the internet.

6

Modern slavery statements are registered by the Minister.

7

Revised versions of registered modern slavery statements can be registered in some circumstances.

8

9 **18 Modern Slavery Statements Register**

10

(1) The Minister must maintain a register of modern slavery statements, to be known as the Modern Slavery Statements Register.

11

12

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(2) The register must be made available for public inspection, without charge, on the internet.

14

15 **19 Registration of modern slavery statements**

16

(1) The Minister must register a modern slavery statement:

17

(a) given in accordance with section 13 (modern slavery statements for single reporting entities) or 14 (joint modern slavery statements); or

18

19

20

(b) prepared in accordance with section 15 (Commonwealth modern slavery statements).

21

22

(2) The Minister may register a statement given under section 13 or 14 even if the entity giving the statement does not comply with the requirements of subsection 13(2) or 14(2).

23

24

25

Note: However, the Minister may elect not to register a modern slavery statement if the entity does not comply with those requirements.

26

20 Registration of revised modern slavery statements

- 1
- 2 (1) An entity (other than the Commonwealth) may, by written notice
3 to the Minister, accompanied by a revised version of a registered
4 modern slavery statement given by the entity, request the Minister
5 to register the revised version.
- 6 (2) The revised version of the modern slavery statement must indicate
7 the date of the revision and include a description of the changes
8 made to the registered statement (or to the most recently registered
9 revised version of the statement).
- 10 (3) The Minister must register the revised version of the modern
11 slavery statement, if the revised version complies with the
12 requirements mentioned in the following provisions:
13 (a) if the original statement was given under section 13—
14 paragraphs 13(2)(a) to (d);
15 (b) if the original statement was given under section 14—
16 paragraphs 14(2)(a) to (e).
- 17 (4) The Minister may register a revised version of a modern slavery
18 statement even if it does not comply with the requirements
19 mentioned in paragraph (3)(a) or (b).
- 20 Note: However, the Minister may elect not to register a revised version of a
21 modern slavery statement which does not comply with those
22 requirements.
- 23 (5) For a modern slavery statement registered under section 15
24 (Commonwealth modern slavery statements), the Minister may
25 register a revised version of the statement that complies with
26 section 16 and subsection (2) of this section.

1 **Part 4—Miscellaneous**
2

3 **21 Simplified outline of this Part**

4 This Part deals with the following miscellaneous matters:
5 (a) things done by an unincorporated entity;
6 (b) the Minister's capacity to delegate powers and functions
7 under this Act;
8 (c) review of this Act;
9 (d) the power to make rules.

10 **22 Unincorporated entities**

- 11 (1) This section applies if this Act requires or allows a thing to be done
12 by an entity that is an unincorporated body.
- 13 (2) The thing must, or may, be done by a responsible member of the
14 entity on the entity's behalf.

15 **23 Delegation**

- 16 (1) The Minister may, by writing, delegate all or any of the Minister's
17 powers and functions under this Act to an SES employee, or acting
18 SES employee, in the Department.

19 Note: The expressions *SES employee* and *acting SES employee* are defined
20 in the *Acts Interpretation Act 1901*.

- 21 (2) In exercising powers or functions under a delegation, the delegate
22 must comply with any directions of the Minister.
- 23 (3) Subsection (1) does not apply to a power to make, vary or revoke
24 the rules.

25 **24 Review of this Act**

- 26 (1) The Minister must cause a report to be prepared reviewing:

- 1 (a) the operation of this Act and any rules over the period of 3
2 years after this section commences; and
3 (b) whether this Act or any rules should be amended.
- 4 (2) The review must be:
5 (a) started as soon as practicable after the end of the period of 3
6 years after this section commences; and
7 (b) completed within 12 months after it starts.
- 8 (3) The Minister must cause copies of the report to be tabled in each
9 House of the Parliament within 15 sitting days of that House after
10 the completion of the report.

11 **25 Rules**

- 12 (1) The Minister may, by legislative instrument, make rules
13 prescribing matters:
14 (a) required or permitted by this Act to be prescribed by the
15 rules; or
16 (b) necessary or convenient to be prescribed for carrying out or
17 giving effect to this Act.
- 18 (2) To avoid doubt, the rules may not do the following:
19 (a) create an offence or civil penalty;
20 (b) provide powers of:
21 (i) arrest or detention; or
22 (ii) entry, search or seizure;
23 (c) impose a tax;
24 (d) set an amount to be appropriated from the Consolidated
25 Revenue Fund under an appropriation in this Act;
26 (e) directly amend the text of this Act.