

Employment Tax Alert

Modern Slavery Act 2015

Further information

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Background

The Global Slavery Index estimates that 36mn people are living in modern slavery today. Eliminating modern slavery could channel roughly \$131bn of spending per year into non-exploitative markets and businesses and increase global GDP by as much as \$650bn annually.

The Modern Slavery Act 2015 contains provisions that require certain businesses to produce a statement setting out what steps have been taken to ensure there is no modern slavery in their own business or in their supply chain. Modern slavery covers the offences of human trafficking, slavery, servitude and forced or compulsory labour.

The Modern Slavery Act 2015 came into force on 29 October 2015 but there are transitional provisions which give time for businesses to comply with the new rules. Businesses with a year end of 31 March 2016 will be the first businesses required to produce a statement for the 2015/16 financial year.

The Act requires any commercial organisation (wherever incorporated), that

- ▶ carries on a business or part of a business in the UK
- ▶ supplies goods or services and
- ▶ has an annual global turnover which exceeds a threshold of £36mn (which includes the turnover of any subsidiaries regardless of where they are based)

to produce a slavery and human trafficking statement for each financial year.

Consideration will need to be given as to which entities in a group structure (including both UK and non-UK entities) will potentially need to be included in a group statement or have a standalone statement.

What is required?

The slavery and human trafficking statement will be a public facing document which is to be made available on the business's website where it has one. The statement has to be approved either by the company Board and signed by a Director, or in the case of LLPs, by its members and signed by a designated member.

The legislation is not prescriptive about the layout or specific content of the statement but it must set out all the steps an organisation has taken to ensure there is no modern slavery in its business or supply chains. If no such steps have been taken, this should be stated. The legislation does, however, contain details of items that a commercial organisations may want to include:

- ▶ The organisation's structure, its business and its supply chains;
- ▶ Its policies in relation to slavery and human trafficking;
- ▶ Its due diligence processes in relation to slavery and human trafficking in its business and supply chains;
- ▶ The parts of the business and supply chains where there is a risk of slavery and human trafficking taking place and the steps it has taken to assess and manage that risk;
- ▶ Its effectiveness in ensuring that slavery and human trafficking is not taking place in its business or supply chains, measured against such performance indicators as it considers appropriate; and/or
- ▶ The training and capacity building about slavery and human trafficking available to its staff.

Failure to comply

Where a qualifying business fails to produce a slavery and human trafficking statement where required, the Secretary of State may seek an injunction through the High Court requiring the business to comply. Failing to comply with the injunction would risk being in contempt of court and is punishable by an unlimited fine. There will undoubtedly be a reputational risk for any business which is reported as having failed in its obligations.

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Our view

The first statements will need to be produced very soon which gives businesses little time to undertake planning and preparatory work. Timing will also need to be factored in for any board or partnership meetings to take place for the statements to be approved and signed-off.

The purpose of this legislation is to increase transparency and to generate continuous improvement. This legislation comes in addition to a number of new human rights reporting regulations including the EU Directive on Non-Financial Reporting and gender pay reporting.

Whilst due diligence is not a legal requirement under the Act, it is good business practice and will be key to identifying where any risks arise and where improvements are required. Other areas to consider include:

- ▶ Engaging closely with suppliers to understand their approach to modern slavery
- ▶ Raising awareness within the organisation and ensuring that those employees who are at risk of exposure, such as buyers, have appropriate training
- ▶ Reviewing company policies, including related issues such as human rights and bribery and corruption
- ▶ Reviewing standard terms with supply chain and develop assurance processes to test any issues

How we can help

We offer a cross-functional approach, involving specialists from our People Advisory Services, law, human rights, supply chain and forensic practices. Our work includes:

- ▶ Supporting the development and roll-out of compliance programmes including development and facilitation of training programmes, development of attestations and questionnaires and management of responses
- ▶ Undertaking investigations of allegations pertaining to instances of modern slavery in the supply chain including:
 - ▶ Announced and unannounced visits at manufacturing facilities
 - ▶ Gathering and preserving evidence with reference to relevant criminal procedure rules
 - ▶ Root cause analysis of compliance breaches
 - ▶ Business integrity reviews to expose areas at risk of non-compliance
- ▶ Supporting the development of indicators for internal performance measurement
- ▶ Assisting with the drafting of the annual statement, memorandums to directors/partners, board minutes, and policies
- ▶ Verifying external disclosures