

Commercial

Modern Slavery Q & A - Transparency in Supply Chains

Q: What is the Modern Slavery Act 2015?

A: This is a law recently enacted (as of October 2015) that targets the international crimes of slavery and human trafficking by imposing reporting requirements on large businesses. The Act is implemented and interpreted by the (Transparency in Supply Chains) Regulations 2015.

Q: What requirements apply to international corporations?

A: The Act requires commercial organisations carrying on business in the United Kingdom with an annual global turnover of £36 million to produce a slavery and human trafficking statement in each financial year from 31st March 2016 onwards. This statement should be published on the company's website and must state in the negative if no measures have been implemented to prevent slavery.

Q: What constitutes slavery, servitude, and forced or compulsory labour?

A: Slavery is characterised by the treatment of another person as property and deprivation of their freedom. It involves ownership and trading of people and is a crime under Section 71 of the Coroners and Justice Act 2009. Servitude is work by coercion, including bonded indenture and possibly habitation on another's property. Forced or compulsory labour is work or service exacted under menace of penalty or otherwise not voluntarily (consent to an aspect not making it voluntary).

Q: What statement is required to be made by companies falling under the MSA?

A: For each financial year ending on or after 31st March 2016, the company must prepare and post on its website a slavery and human trafficking statement. While little detail is given about required contents or format of this statement, guidance on what it may include provides for business policies relating to slavery, due diligence and auditing processes, training for those in supply chain management and processes for evaluating and managing risks as well as key performance indicators to assess effectiveness of the organisation's activities in preventing slavery and human trafficking.

Q: What are the requirements for an overseas parent with a UK subsidiary?

A: In the case of a non-UK parent company with a UK subsidiary whose combined turnover reaches the threshold and the existence of a commercial presence within the United Kingdom, the parent company should almost always produce a modern slavery statement. The reporting provisions reflect the commercial reality that the UK subsidiary is an extension of the foreign parent's activities into the United Kingdom. An exception to compliance exists in this case where the UK subsidiary has the ability to act completely independently of its parent or other group companies (under paragraph 3.8 of the Guidance).

Q: How about a UK subsidiary with a turnover of less than £36 million and international presence?

A: A UK company that does not meet the £36 million threshold is not required to prepare its own statement. However, if it is a subsidiary of a larger conglomerate that does meet the threshold and its activities form part of the supply chain or business of the group then the Act will apply and one statement should be published collectively for the group. Turnover in this instance includes amounts from providing goods and services by ordinary business activities after deducting trade discounts, VAT and other taxes.

Should you wish to discuss your requirements or find out more about our services, please contact the 3HR office on +44 (0)20 7194 8140 or your usual 3HR contact.

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