

# The three things you need to know about the new Modern Slavery legislation



illustration: Martina Gentile

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With modern slavery legislation at federal and state levels being introduced in Australia, and regulations and guidelines under development, here are the three most common questions and answers on this topic to help you build smarter supply chains:

## **1. What exactly is modern slavery and where does it fit on the sustainability spectrum?**

The principal question we receive about modern slavery is the most basic – what does the term mean? It's important to understand that modern slavery is an umbrella term referring to different forms of human exploitation where the victim can't refuse or leave, and can include human trafficking, servitude, child labour, sex trafficking, forced marriage, forced labour and debt bondage.

Forced labour is defined by the International Labour Organisation (ILO) as “work or service that is exacted from any person under the menace of any penalty and for which the said person has not offered themselves voluntarily”. That means that while there may be many instances of unpaid or underpaid work around Australia, these may not actually constitute modern slavery if the person can choose to leave; such instances may be best referred to the Australian Fair Work Ombudsman ([www.fairwork.gov.au](http://www.fairwork.gov.au)).

Over the past decade we've seen the topic of sustainability broaden from selected environmental issues such as energy, water and waste, to include more economic factors such as long-term business cases, resilience and risk.

- See [Australian business is unprepared for the 2018 Modern Slavery Act](#)

Now there is a growing – and long overdue – focus upon social aspects such as health and wellbeing, social value, and human rights and modern slavery. Which means that for an organisation, project or supply chain to be considered truly 'sustainable, it must be assessing and improving its performance against all these areas.

The opportunities for better supply chains mean greater efficiency, more transparency, improved performance and better business. The risks around poor supply chains include financial, operational, market and reputational damage. What you don't know about your supply chains could destroy your organisation.

Research from the 2017 Global Slavery Index and ILO estimates that today there are more than 40 million people in conditions of modern slavery worldwide; more than at any time in human history.

More than 66 per cent of these people are found in the Asia Pacific, and 71 per cent are women and girls. So, it's time we all take a good, hard look at our supply chains – whether for coffee, clothing or construction materials – and consider where our resources come from and who produces them.

## **2. So if there are no people in conditions of slavery on our site, are we in the clear?**

It's not as easy as looking across one workplace and confirming the conditions on that site alone; we need to think about the contractors, suppliers, materials and resources we use, the manufacturing, handling and transport processes, and our extended supply chains.

For many organisations and projects, this may involve a complex, multi-year process as they look through their Tier 1 contractors, Tier 2 suppliers and so on. But this is essential to grab the opportunities mentioned and manage the risks that you may or may not see.

Whilst the Global Slavery Index estimates there are 4000-4500 people in conditions of slavery in Australia, many of our supply chains lead straight to the Asia Pacific where there are over 30 million people enslaved. Some of these supply chains may be hard to validate.

In 2015 the UK Government released modern slavery legislation that, through mandatory reporting, creates the impetus to ensure there are no modern slavery practices within larger organisations and includes the requirement to focus on their supply chains too.

In June 2018, after an extensive consultation process and the December 2017 publication of the *Hidden in Plain Sight* report, the Modern Slavery Bill was introduced to the Australian Parliament. Whilst details of the regulations and guidelines are yet to be released, this bill means that both Australian and foreign entities carrying on business in Australia and with a turnover of over \$100 million must make a public statement declaring the:

- organisation's structure, operations and supply chains
- risks present in their operations and supply chains
- actions taken to address those risks, including policies and processes around due diligence and remediation
- organisation's assessment of the effectiveness of these actions

Almost simultaneously, the NSW Parliament passed a Modern Slavery Act. The NSW Act means that organisations with any employees in NSW, supplying goods and services for profit and with a turnover of over \$50 million, must make an annual statement.

Significantly, the NSW law only applies to organisations that do not report under the Federal legislation. Businesses covered by the NSW law must make annual public reports on the actions taken to address modern slavery risks in their operations and supply chains.

It is anticipated that organisations not covered by either Federal or NSW legislation will make voluntary statements; to demonstrate best practice, to show increased transparency, and to qualify for larger, public projects. It is likely that these voluntary statements will be encouraged by private, public and not-for-profit sectors alike.

### **3. Now we understand a bit about the risks and opportunities, what should we do differently?**

Firstly, get ready for a tidal wave of transparency heading in our direction. This isn't something to be feared, but a prospect to be encouraged. Public statements about human rights and modern slavery assessments and actions will allow businesses and projects to make more informed choices, and the market will move towards more transparent, more proficient, more certified, more sustainable supply chains.

Whilst many are saying that transparent supply chains, rather than perfect supply chains, are a key objective, it's important to note that organisations will be judged by what they are doing to improve things, not solely by how transparent they are being. It's one thing to detect and disclose modern slavery in your supply chain; quite another to work with your suppliers long-term to improve practices and integrate best practice human rights into procurement processes.

Secondly, understand and manage your current risks. The Freedom Partnership identifies 11 high-risk areas for Australian organisations; of those, property organisations may be involved in cleaning, construction, retail and the beauty industry. Start by assessing the high-risk areas across your extended supply chains; for example by country, by spend, by material or by environmental impact.

Thirdly, ensure that your teams, clients and suppliers understand the issue and can see their roles in ensuring your organisation moves towards not just compliance but best practice supply chain processes.

This is not an exhaustive list of resources – there are many organisations with invaluable materials – but it'll start your learning journey in the right direction:

The [Supply Chain Sustainability School](#) has dozens of free resources online, including videos and a report to help you start the discussion within your organisation.

Industry leaders such as EY Australia can provide you with up-to-date analysis about your [modern slavery risks](#) and School Partners including [Action Sustainability Asia Pacific](#) and [Edge Environment](#) can advise on tailored solutions.

In terms of global data, look at the [Walk Free Foundation](#) and the [Global Slavery Index](#), and keep your eyes on [The Bali Process](#).

Here in Australia, [The Freedom Partnership](#) and [Anti-Slavery Australia](#) have brilliant resources to address remediation, training and action. And the [Business and Human Rights Resource Centre](#) similarly has a range of topics, sectors and projects.

We'd advise you to look at international best practice case studies – not just from your own sector but across different industries – to see how organisations are adapting to legislation in countries within which modern slavery is being tackled.

And the Supply Chain Sustainability School will complete simple new e-learning modules, available free online, over the next month – watch this space, and start taking a closer look at your supply chains.

*Robin Mellon is CEO of the Supply Chain Sustainability School, a not-for-profit providing free sustainability learning resources to organisations across our property, construction and infrastructure supply chains, that is funded and supported by industry leaders:  
[www.supplychainschool.org.au](http://www.supplychainschool.org.au)*

<https://www.thefifthestate.com.au/columns/spinifex/new-modern-slavery-legislation>

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