

Addressing Modern Slavery

A Guide for Australian Businesses

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power of
humanity





Introduction

Every day, millions of men, women and children around the world are subject to modern slavery. Their labour – extracted through deception, force, coercion, violence or threats – forms part of the supply chains that make many of the products we consume every day, including our food, clothes, cosmetics, cars and electronics. There is a clear and urgent need for a global response to modern slavery. As employers and providers of goods and services, Australian businesses play a pivotal role in this response.

The Australian Commonwealth Modern Slavery Act (2018) (*the Act*) requires Australian businesses to consider how their operations and supply chains may be contributing to modern slavery practices, and to take appropriate action to minimise these risks. The reporting requirements under the Act presents an opportunity for businesses to help end modern slavery, both in Australia and overseas.

To achieve these outcomes, businesses will need to understand where risks of modern slavery in their operations and supply chains are; and address the identified risks using an ongoing, collaborative approach that embeds an awareness of modern slavery throughout their operations and supply chain.

What is Modern Slavery?

Modern slavery is when coercion, threats or deception are used to exploit individuals and deprive them of their freedom. These are serious crimes globally, and in Australia, and include trafficking in persons, slavery, servitude, forced marriage, forced labour, debt bondage, the worst forms of child labour, and deceptive recruiting for labour or services. What these things all have in common is that they undermine a person's freedom and ability to make choices for themselves.

The Global Extent of Modern Slavery

Estimating the exact extent of modern slavery is hard to determine due to the underground nature of many slavery practices and under-reporting of the humanitarian issue. The hidden nature of modern slavery in global supply chains also reflects the complexity of production processes and data limitations. However it has been estimated that on any given day in 2016, there were 45.8 million people globally subject to some form of modern slavery.³ Of these people, it is estimated that 71 per cent were women and girls, and one in four were children. Africa is the continent with the highest prevalence of modern slavery, followed by Asia and the Pacific region.⁹

Disclaimer: This guide is designed and intended to provide general information and does not replace the need for organisations to seek their own legal advice on meeting their obligations under the Modern Slavery Act. This guide was developed in February 2020. Information provided may have changed since this time.

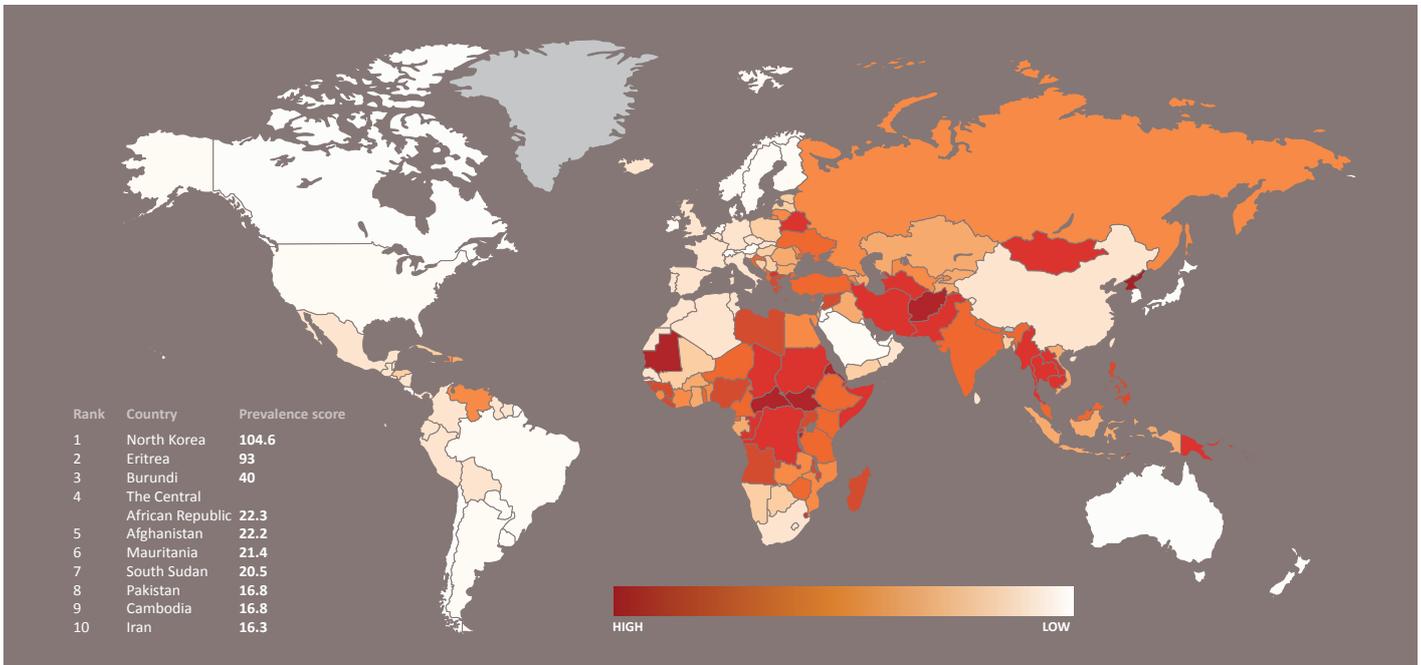


Figure 1: Estimated prevalence of modern slavery by country: noting 10 countries with highest prevalence, estimated victims per 1,000 population⁹

How is Modern Slavery Relevant to Australian Businesses?

Australian businesses contribute to modern slavery both through global trade flows and through business operations on our own shores. While much of the attention on modern slavery has to-date focused on the countries where prevalence of exploitation is high, global trade and commerce make it inevitable that products generated by modern slavery will travel across borders into countries like Australia, where the prevalence of modern slavery is lower.

The United Nations Guiding Principles on Business and Human Rights addresses the issue of identifying potential adverse impacts on human rights by business activity. Target 8.7 in the United Nations Sustainable Development Goals (SDGs) calls for measures to end modern slavery, through initiatives and policies to ensure that public and private supply chains are free of these crimes.⁷ While the SDGs apply to all countries, individual countries vary in their impact and influence on the global economy. The G20 countries, which collectively account for nearly 80 percent of world trade, currently import US\$354 billion worth of products at-risk of modern slavery every year.³

Australia is exposed to risks of modern slavery through the products we import. Modern slavery also occurs within Australia itself, with industries including agriculture, construction, domestic work, cleaning, hospitality and food services considered at higher risk of forced labour. Therefore Australia has a clear and immediate responsibility to take action to prevent modern slavery, both domestically

and overseas. By passing the Act, Australia has joined seven other G20 countries that have passed laws or policies that address modern slavery in business supply chains and operations. The Act is an important step forward to ensure that Australian businesses and government contribute to ending modern slavery.

Which Industries Are Most Affected by Modern Slavery?

No industry in the world is immune from modern slavery, however according to the 2017 Global Estimates of Modern Slavery⁹, globally, most cases of forced labour occurs in domestic work, construction, manufacturing, agriculture, forestry and fishing. In each industry, recruitment mechanisms often involve deception or coercion.

The **domestic work** sector accounts for 24 percent of identified forced labour exploitation cases. Domestic workers perform a range of tasks in private homes, including cooking, cleaning, laundry and childcare. Some domestic workers live in their employers' homes and are considered "on call" to undertake work for their employer. Payment is often low, and some workers may only receive food and accommodation without payment.⁶

The **construction** industry accounts for 18 per cent of labour exploitation cases. Employment conditions are notoriously dangerous and demanding, with a high incidence of industrial accidents.



Figure 2: Top 5 products at risk of modern slavery imported into G20 countries, by US dollar value³

In the **manufacturing** sector, which accounts for 15 per cent of labour exploitation cases, exploitation has been documented widely in garment and footwear factories, and the electrical and electronics industries. Some manufacturing workers are required to, pay high recruitment fees for jobs and work excessive hours. They often have their passports illegal retained, and can face illegal imprisonment and physical abuse. Minerals that are produced in conflict zones, have higher risks of forced labour.

Commercial agriculture, forestry and fishing accounts for 12 percent of identified forced labour exploitation cases, and abuses have been documented in most countries where these industries operate. A common feature is the involvement of illegitimate employment or recruitment agents, who may exploit workers by not paying their wages, restricting their movement, or engaging in violence and threats. In the fishing industry, working conditions are physically challenging and difficult to monitor, and in many cases involve illegal business operations. Migrant workers are at an especially high risk of coercion in this industry.

While these examples illustrate the industries that are at greatest risk, it is important to remember that modern slavery can occur in any industry, and in different contexts and situations.

Understanding the Risk Factors^{1,2}

A number of risk factors have been identified as contributing to modern slavery in relation to the following core features of business:

BUSINESS MODELS

- *Complex supply chains* increase the risk of modern slavery, and complex global supply chains are particularly difficult to monitor.
- *Complex employment relationships* present heightened risks, particularly where workers are outsourced, sub-contracted or employed via an agency. The triangular relationship between the employer, agency and worker makes it easier for workers to be exploited. Similarly, the use of labour recruiters can increase risk through practices such as the imposition of debt or recruiting fees.
- *Consumer-driven industries requiring high flexibility*, such as the electronics manufacturing and fast fashion industries, leave workers vulnerable to exploitation, including long working hours and forced overtime at times of high consumer demand.

OPERATING CONTEXT

- *Lack of government regulation*, including situations where inspectors and regulators have inadequate powers and resources, can facilitate worker exploitation.
- *Presence of cheap labour and high numbers of vulnerable workers*, including groups such as children and migrants, can signal a risk of exploitation. These workers may be more vulnerable to coercion, deception or abuse. For example, migrants may have their ID documents confiscated or be threatened with deportation.
- *Lack of access to representative workers' organisations and collective agreements* exposes workers to risks of exploitation. For example, workers discouraged or



prevented from joining a trade union may not have valid contracts or acceptable working conditions.

NATURE OF WORK

- *Jobs requiring unskilled labour*, which is typically low paying and undervalued, often employ more vulnerable workers such as migrants, minorities, and people who are illiterate or have disabilities.
- *Temporary, seasonal or agency work* introduces employment uncertainty, and often involves the use of labour recruiters; both these factors make workers more vulnerable to exploitation.
- *Dangerous or physically demanding work* exposes workers to health and safety risks, particularly where there are limited protections for workers.

LOCATION OF WORK

Risk factors vary from one country to another on the basis of political, socio-economic and legal factors.

- *Political factors* contributing to modern slavery include weak protections for civil liberties and workers' rights; corruption and general disregard for the rule of law; high levels of crime and violence; state persecution of undocumented migrants; and political conflict and instability.
- *Socio-economic factors* that increase modern slavery risk include widespread poverty, and social inequalities relating to economic status, education or gender.
- *Legal and political factors* associated with modern slavery risk include immigration policies that restrict employment options for migrants; lack of bilateral agreements about migrants' rights; and non-ratification of conventions that prohibit forced labour and protect workers' rights.



How Can Businesses Address Modern Slavery?

The United Nations Guiding Principles on Business and Human Rights⁷ states that:

“In order to meet their responsibility to respect human rights, business enterprises should have in place policies and processes appropriate to their size and circumstances, including:

- (a) **A policy commitment** to meet their responsibility to respect human rights
- (b) **A human rights due diligence process** to identify, prevent, mitigate and account for how they address their impacts on human rights
- (c) **Processes to enable the remediation** of any adverse human rights impacts they cause or to which they contribute.”

This responsibility includes taking action to respond to modern slavery risks. In this context, “modern slavery risks” refers to the risks of harm to people rather than any risk to the business, such as reputational or financial damage. However, it makes good business sense to take the issue of modern slavery seriously. As well as helping to prevent modern slavery, an effective response to the issue can bring valuable benefits to businesses.

The Business Case for Addressing Modern Slavery¹

- Avoiding complicity in harming people
- Improved employee engagement, recruitment, retention and motivation
- Improved risk assessment and management, healthier working environment
- Improved consumer and investor relations
- More sustainable business relationships
- Enhanced reputation and image

Responding to Modern Slavery: A Continual, Collaborative Process

Modern slavery is a complex issue with multiple drivers and governments as well as civil society do not expect that the issue will be solved immediately. Instead, each actor, and specifically businesses, have a responsibility to demonstrate that they are contributing to the solution through ongoing due diligence, reporting, and taking appropriate actions.

Responding effectively to modern slavery requires adequate resources, and is a process of continual improvement that strengthens over time.

It is important for businesses to communicate an honest and transparent view of their operations and supply chains, and to recognise that commitment, collaboration, and open communication with all stakeholders are essential.

As awareness of modern slavery becomes embedded within the culture of Australian businesses, and as knowledge is shared among businesses and sectors, the individual efforts of Australian businesses can contribute to a collective, far-reaching impact in combatting modern slavery, both in Australia and globally.



1. **Understand the risks of modern slavery:** Understand how modern slavery risks relate to your organisations business model, operating context, as well as nature and location of work; and how these risks relate to the broader landscape in which your business operates.

THINGS TO CONSIDER:

- **What is modern slavery?** Before beginning this process it is vital to have an understanding of the humanitarian issue of modern slavery and how it is fueled by business and the global market. If you don't have this understanding in house, look through the resources referred to in this document or reach out to civil society organisations who do.
- **How could our business be affecting people negatively?** Consider who you need to speak to in order to find out what the issues are. These are important steps in beginning to understand the potential ways in which your business is involved in modern slavery. At this point, also consider how you can learn from other businesses in your sector.
- **Where are our high risk areas?** Considering where your business is producing or purchasing high risk modern slavery products can help to identify areas for most immediate action.

2. **Develop policies that will influence decision-making:** Reviewing existing policies relevant to modern slavery including, but not limited to, procurement and recruitment policies, whistle-blowing procedures, child protection policies, supplier and employee codes of conduct and staff training policies, to identify areas where additional protection can be implemented is a good first step. Secondly, considering the need to develop new policies that specifically address the issue of modern slavery is important.

THINGS TO CONSIDER:

- **How do we recruit staff?** Are we using a labour hire firm or employment agency? What agreements do we have with these firms about the conditions of employment they can offer? Ensure that you have not set specific requirements in your recruitment practices (for example for cheap labour) which may incentivise modern slavery.
- **What message are we sending to our suppliers?** Communicating your organisations non-tolerance for modern slavery with your suppliers through a code-of-conduct can send a strong message and help develop foundations for ethical business practice.
- **What screening processes do we have in place for assessing our partners?** Ensuring adequate consideration of what risks to modern slavery your partners have themselves may help to prevent your business contributing to modern slavery through partnerships.

The Modern Slavery Act (2018): Meeting Your Obligations

Under the Act, Australian entities with consolidated annual revenue over \$100 million (referred to as reporting entities) are required to submit an annual modern slavery statement which outlines how the business is identifying and addressing modern slavery risks in its operations and supply chains. Smaller businesses can report voluntarily. The first statements are due on 31 December 2020 and the Australian Government will publish all modern slavery statements on a publically available online repository.

The Australian Government's Guidance for Reporting Entities⁸ provides essential and comprehensive information to assist businesses in completing their modern slavery statements. To complement this guidance, below is a high level framework and some questions that may assist organisations to start their modern slavery journey. Naturally, your organisation will need to obtain legal advice on exactly what steps need to be undertaken in order to meet the requirements of the Act.

Through its modern slavery statement, a business can demonstrate that it takes the issue of modern slavery seriously, and that it has developed a thoughtful response covering the whole of its business. The statement should enable the reader to understand the nature of the business as a whole, and should show how the company is investigating modern slavery risks and taking appropriate actions to address them.

3. Perform due diligence and take action to address risks: Using a human rights due diligence approach, a business can map its direct operations, supply chains and business relationships, then cross reference these with modern slavery risk factors. Knowing the business's vulnerabilities to modern slavery will help identify the most relevant issues and to develop informed prevention strategies. These strategies should focus on mitigating, rather than just avoiding, modern slavery risks.

THINGS TO CONSIDER:

- **How can we address the root causes of modern slavery?** Consider what protections you can put in place for people to minimise their ability to be exploited throughout your businesses operations and supply chains.
- **What do we need to do to prevent adverse impacts?** It's important to consider both immediate and long-term actions your organisation can take. Before doing anything however, always consider how to make sure that your planned course of action doesn't actually make the problem worse. If you are not sure, seek advice!

4. Build engagement and collaborate: Businesses should consider clearly communicating their modern slavery risks, policies and actions throughout the organisation, and embedding respect for human rights and zero tolerance for modern slavery. It is important to remember that preventing modern slavery is not achievable for any business alone; an effective response to modern slavery requires collaboration.

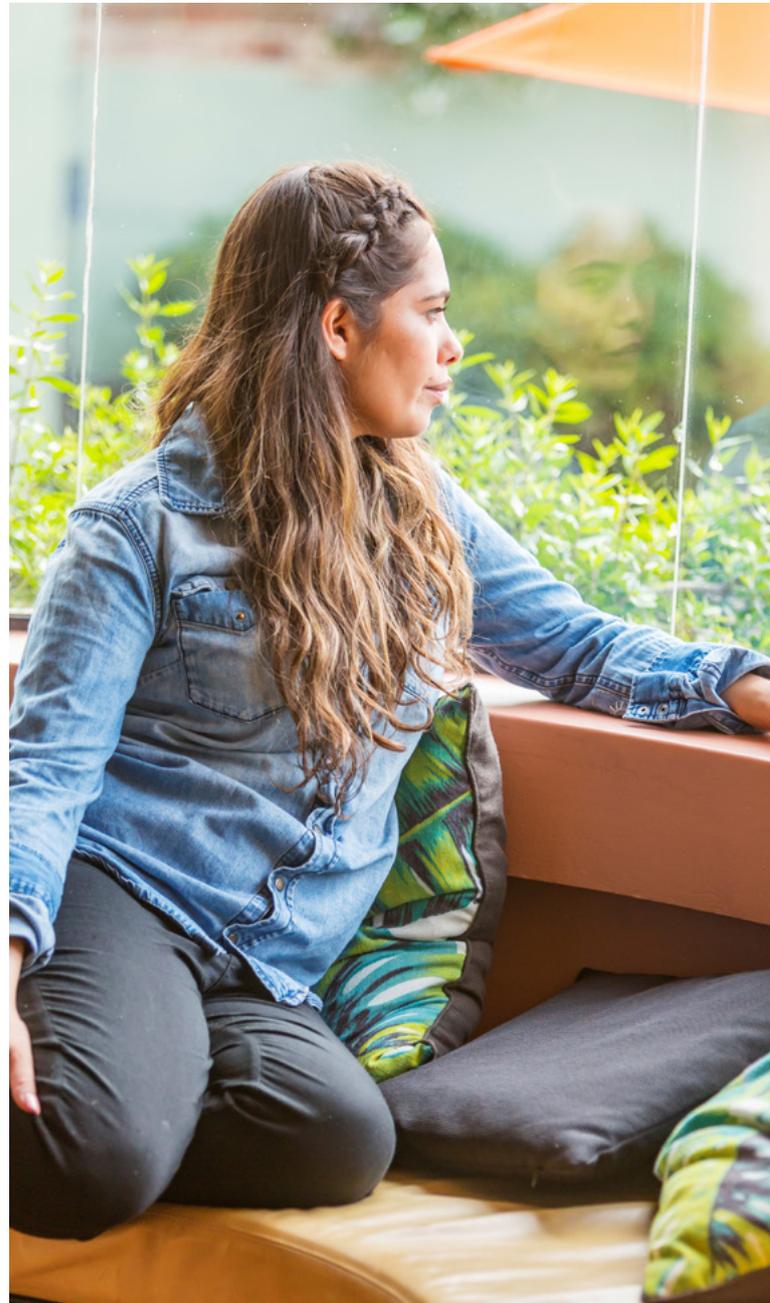
THINGS TO CONSIDER:

- **Who in our business needs to learn more about modern slavery?** Ensuring training for staff in key roles with high purchasing or decision making power is essential. Also engaging your executive teams and board at an early stage to ensure they understand your responsibilities is key.
- **Who do we need to engage to develop our own understanding of these issues?** Collaborating with government, civil society and other businesses can help build your own understanding of modern slavery.

5. Update and review: While businesses are required to produce a modern slavery statement every year, addressing modern slavery should be an ongoing process. Reviews are an opportunity for businesses to evaluate the effectiveness of their policies and previous initiatives, and to ensure that adequate resources are made available to continue to address modern slavery risks.

THINGS TO CONSIDER:

- **What were our actions, and were they effective?** It's important to ensure you have ways on measuring the effectiveness of your actions.
- **What did we learn?** Consider how you can share this learning in your business, with your stakeholders and within your sector.
- **How can we strengthen protections for people?** Thinking ahead, and constantly considering what are the next steps that you can take is a vital part of the continuous improvement approach required in addressing modern slavery risks.





Further Advice & Assistance

For further information on the humanitarian issue of modern slavery or to enquire about workplace training, contact Australian Red Cross by emailing national_stpp@redcross.org.au

Red Cross supports individuals affected by modern slavery in Australia through the Support for Trafficked People Program, funded by the Department of Social Services. More information about this program is available on our website redcross.org.au/stpp

The Australian Federal Police (AFP) is responsible for investigating suspected cases of modern slavery in Australia. If you suspect that someone is affected by modern slavery practices, you can contact the AFP on 131 237 to discuss or report it. Contact can be made anonymously. In an emergency and if someone is in immediate danger, always call 000 for police assistance.

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