

Review of Australia's Modern Slavery Act 2018

– yourtown's advocacy submission

What is it about?

The *Modern Slavery Act 2018 (Cth)* commenced on 1 January 2019 and complements Australia's comprehensive criminal justice response to modern slavery. Under the Act large businesses and other entities operating in Australia (earning \$100M +) must report annually on how they are addressing modern slavery risks in their domestic and global operations and supply chains.

Why is it important?

The Australian Government is undertaking a statutory review of the Act's operation and compliance over the first three years since commencement. The review will consider whether additional measures are necessary to improve the Act's operation and compliance in the Australian context.

Some of **yourtown's** key messages:

1. The definition of modern slavery should not be broadened and should remain unchanged

Generic phrasing would broaden the definition, and lead to greater confusion as to what is required to be reported by organisations such as **yourtown**. Lack of definitional clarity could in turn lead to over reporting (especially if the approach is taken to broaden the definition).

2. That any proposed due diligence process should be flexible and aligned to the nature of the business and its operations and be set out in administrative 'guidance' material, rather than legislation

Adoption of a one-size fits all due diligence process under the Act may lead to disproportionate and unwieldy burdens being placed on organisations. For example, there is a vast difference between the supply chains engaged by charitable organisations such as **yourtown**, as compared to those engaged by a large investment, or a mining, company.

3. The review of the Act consider the proposal to lower the threshold to support a nationalised approach to modern slavery regulation

Having multiple modern slavery legislative regimes across Australia only serves to complicate compliance, particularly for organisations with cross border operations that do not currently meet the revenue threshold requirements for the Commonwealth Act.

4. The review of the Act should include a complaints process, and investigations mechanism that is empowered, and able to prosecute allegations of modern slavery and consider inclusion of civil penalties or sanctions, as part of a stepped approach to regulatory compliance

Modern slavery reporting regimes are inherently limited, requiring companies to report, rather than to act, and attaching only indirect liability for modern slavery activities through failings in reporting. Development of complaints, and investigation mechanisms would strengthen awareness of, and address modern slavery issues at all levels of a business.

The end goal of modern slavery laws should not be to teach regulatory compliance, but to identify and end modern slavery practices.



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