

ARA Explainer:
The Modern Slavery Reporting Requirement
November 2018



Australian
Retailers
Association

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Modern Slavery Reporting under the *Modern Slavery Act 2018*

The Australian Government has passed legislation to enact a *Modern Slavery Act* (the *Act*). The *Act* introduces a Modern Slavery Reporting Requirement for all businesses with an annual turnover exceeding \$100 million in Australia. The Australian Retailers Association (ARA) has produced a brief explainer for retailers about their obligations under the *Act*.

Modern Slavery Reporting Requirement:

The Modern Slavery Reporting Requirement (reporting requirement) is intended to encourage businesses to respond to modern slavery, while simultaneously increasing information available to consumers and investors by improving transparency. Reporting entities will be required to publish annual Modern Slavery Statements (Statements) outlining their actions to address modern slavery. This is intended to increase business awareness of modern slavery, reduce modern slavery risks in Australian goods and services, and drive a business 'race to the top' to improve workplace standards and practices.

Below are some key facts for retailers related to the reporting requirement, and to the *Act*.

1. Definition of modern slavery

"Modern slavery" consists of behaviour which constitutes existing offences under Divisions 270 and 271 under the *Commonwealth Criminal Code*:

- Slavery, servitude, forced labour, debt bondage and deceptive recruitment for labour or services.

2. Who will have to report

All industries and sectors will be required to report, including retailing, wholesaling, hospitality, supply chain and logistics, and service provision entities. Businesses will be required to report if they meet or exceed \$100 million total annual revenue in Australia. The requirement will apply to all entities meeting this revenue threshold that are also headquartered in Australia, or that have any part of their operations in Australia.

Entities which do not meet or exceed \$100 million total annual revenue in Australia are not obligated to produce Statements, however, they may opt-in if desired.



However, smaller entities who supply goods or services to, or have an ongoing business relationship with, larger entities that exceed the reporting threshold may ultimately be required to produce information regarding modern slavery risks in their own supply chains.

The ARA expects the first reports to be due before the end of the 2019/2020 financial year.

3. Reporting on “operations” and “supply chains”

Entities which exceed the annual turnover threshold will be required to report on their actions to address modern slavery in both their operations and their supply chains.

The Commonwealth Government and the Department of Home Affairs will provide detailed guidance for businesses relating to the definitions of operations and supply chains and will develop these definitions in consultation with business sector and broader community. It is proposed that the definition of ‘supply chain’ extends beyond first tier suppliers. The ARA will represent the retail industry’s views during the development of guidance material.

4. Mandatory reporting criteria for Modern Slavery Statements

Entities will be required to report against four broad criteria:

- The entity’s structure, its operations and its supply chains;
- The modern slavery risks present in the entity’s operations and supply chains;
- The entity’s policies and process to address modern slavery in its operations and supply chains and their effectiveness (such as codes of conduct, supplier contract terms and training for staff); and
- The entity’s due diligence processes relating to modern slavery in its operations and supply chains and their effectiveness.

The Commonwealth Government and the Department of Home Affairs will provide detailed guidance about the nature and extent of the information that should be included in Statements. The ARA will represent the retail industry’s views during the development of guidance material.

5. Approval and publication of Modern Slavery Statements

Statements will require approval by the board (or equivalent) and sign off by a director. The Statements will need to be published within five months of the end of the financial year. Entities will be required to publish their Statements on their websites.



The Commonwealth Government will provide detailed guidance, including a reporting template, best practice examples and information on alleviating and reporting instances of modern slavery.

6. All statements to be made publicly available

The *Act* will enable the establishment of a free, publicly accessible, centralised and searchable repository of statements. This means that all Statements published by businesses will be available for public scrutiny, which is intended to encourage transparency, and the potential for public criticism is intended as the main driver of compliance.

7. No penalties for non-compliance

Consistent with the UK approach, no penalties have been included at this stage. However, the relevant Minister will have the power to seek a formal explanation from entities which do not comply with the obligations, which will be tabled in the Commonwealth Parliament and also be made publicly available.

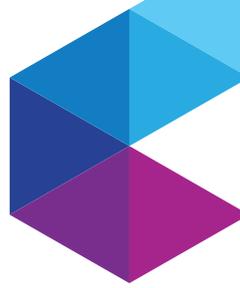
The Minister will also have the power to publicly ‘name-and-shame’ businesses who do not produce Statements. Again, the potential for public criticism is intended as the main driver of compliance at this stage.

8. Review

The *Act* will be reviewed every three years to assess its effectiveness, compliance rates, and to address any issues or unintended consequences. The ARA expects that the first three-yearly review may result in a push for the *Act* to be amended to introduce financial penalties for non-compliance, as well as an Anti-Slavery Commissioner.

Next Steps

The ARA will keep retailers informed and up-to-date with the latest guidance regarding Modern Slavery. All guidance material will be posted on the ARA’s website at www.retail.org.au.



About the ARA:

The Australian Retailers Association (ARA) is the retail industry's peak representative body representing Australia's \$310 billion sector, which employs more than 1.2 million people. The ARA works to ensure retail success by informing, protecting, advocating, educating and saving money for its 7,500 independent and national retail members, which represent in excess of 50,000 shopfronts throughout Australia. The ARA ensures the long-term viability and position of the retail sector as a leading contributor to Australia's economy.