

Episode 132: Summary

Episode name: Combating Modern Slavery: Compliance Obligations and Beyond

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What area(s) of law does this episode consider?

Corporate advisory; modern slavery legislation.

Why is this topic relevant?

Modern slavery is a critical issue that has far-reaching implications for both businesses operating in today's globalised economy and the Australian community. The term 'modern slavery' encompasses a range of exploitative practices, including forced labour, human trafficking, and debt bondage, where individuals are unable to leave their work due to threats, violence, or coercion. Ensuring compliance with modern slavery laws is not only a legal requirement but also a moral imperative for companies aiming to uphold human rights within their operations and supply chains.

In Australia, the introduction of the *Modern Slavery Act 2018* (Cth) established a statutory reporting requirement for larger entities, mandating them to disclose the risks of modern slavery in their operations and supply chains and the actions taken to address those risks. This involves conducting thorough risk assessments, implementing due diligence processes, and continuously monitoring the effectiveness of their actions. Failure to comply can result in significant legal and reputational repercussions, making it essential for companies to stay informed and proactive in their compliance efforts.

What legislation is considered in this episode?

[*Modern Slavery Act 2018* \(Cth\)](#)

[*Criminal Code Act 1995* \(Cth\)](#)

[*Modern Slavery Act 2018* \(NSW\)](#)

[*Modern Slavery Amendment \(Australian Anti-Slavery Commissioner\) Bill 2023*](#)

[*Modern Slavery Reporting Bill 2021* \(NZ\)](#)

[*Modern Slavery Act 2015* \(UK\)](#)

What are the main points?

- Modern slavery encompasses a lack of freedom in terms of movement and choice, with various forms of exploitation including debt bondage, trafficking, child labor, slavery, deceptive recruiting, servitude, forced labour, and forced marriage.
- The prevalence of modern slavery globally, with an estimated 49.6 million affected individuals, highlights the need for increased awareness and action, as individuals may unknowingly contribute to such practices through their own personal supply chains.
- The *Modern Slavery Act 2018* (Cth) ('Act') refers to the Australian Criminal Code and international conventions like the UN and ILO conventions,

promoting harmonisation and compliance with modern slavery regulations. The Act binds corporate entities with annual revenue exceeding \$100 million, including Australian and international corporations operating in Australia.

- The Act requires companies to produce and publish an annual Modern Slavery Statement. The Statement must address seven mandatory criteria, including details on the reporting entity, structure and operations, supply chain, risk assessment, actions taken, effectiveness of actions, consultative processes, and any additional relevant information, with a recent emphasis on discussing the impact of COVID-19 on supply chains and modern slavery risks.
- Meeting these obligations should not be viewed merely as conducting a compliance exercise, but rather a responsibility to focus on thoroughly assessing, identifying, and mitigating risks of modern slavery within the organisation, and understanding the impact of the victims of modern slavery.
- In the Attorney-General Department's three year review of the Act, concerns were raised about the lack of punitive measures. The Attorney-General's Department emphasised the Act's need to encourage capacity building and enforcement, empowering stakeholders and promoting compliance rather than harsh penalties.
- Comments from various sectors during the three-year review indicated a desire for a lower revenue threshold, with stakeholders requesting a template for Modern Slavery Statements, such as a list of questions to be answered for each of the reporting criteria.
- For companies aiming to meet modern slavery regulations across multiple international jurisdictions, complying with Australian standards may ensure compliance in other regions, as Australia is currently considered the gold standard of modern slavery regulation.
- Clients are urged to consider geopolitical actions impacting their risk of modern slavery, which include global challenges like war, the pandemic, and inflation. As costs rise, businesses may prioritise cutting labour and supplier expenses, potentially heightening the risk of slavery.
- Understanding and addressing the complexity of legal and compliance issues related to modern slavery is crucial for businesses to mitigate reputational risks and ensure compliance with legislation. Educating stakeholders on the impact of their decisions and emphasising the commercial consequences can lead to a competitive advantage in attracting investors and customers who prioritise responsible business practices.
- Developing an ESG policy can lead to greater financing opportunities. By documenting and presenting these efforts to financiers, businesses can potentially secure reduced financing rates and further savings in the future.
- Although only entities who meet the revenue threshold are required to submit Modern Slavery Statements, entities below this threshold may voluntarily submit. To become a voluntary reporter, one must notify the Attorney-General's

What are the practical takeaways?

Department before the reporting period ends, and must meet the same compliance standards required of mandatory reporting entities.

- Voluntarily submitting a Modern Slavery Statement can offer commercial benefits such as cost efficiencies, and the convenience of possessing a singular document to refer potential customers, investors, and financiers to.
- There are numerous tech providers that can assist in identifying slavery risks within a supply chain, helping businesses to determine their obligations and necessary actions. Utilising both tech providers and desktop due diligence can enhance transparency and compliance.
- Developing a multi-year action plan with clear priorities and resource allocation is vital for effective modern slavery risk management.
- As a lawyer, pro bono work can significantly enhance your skills, client relationships, and visibility within the legal community, providing valuable learning opportunities and responsibility. By seizing these chances to grow and develop your capacities, you can create stronger connections and expand your career prospects in your practice.