



Australian Government

Office of  
the Australian  
Anti-Slavery  
Commissioner

# Recommendations to strengthen Australia's modern slavery laws

Initial position paper, 30 January 2026

*EVERYONE DESERVES TO LIVE AND WORK IN FREEDOM, SAFETY AND DIGNITY*

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# Executive Summary

**The people who make the goods and deliver the services that Australians rely on every day deserve freedom, dignity, and the chance for their families to thrive.** Yet modern slavery remains embedded in global supply chains, including those connected to Australia. While the *Modern Slavery Act 2018* (Cth) has shone a light on these risks, the Act's reporting-based framework has not delivered the meaningful action or real-world change needed to protect people from exploitation.

After a year in office, the Australian Anti-Slavery Commissioner has listened closely to stakeholders across business, civil society, unions, academia, and government. There is a shared recognition that the current framework has reached its limits and must evolve. This initial position paper sets out the Commissioner's considered advice on the reforms needed to move Australia's approach to combating modern slavery beyond transparency and towards a pragmatic, risk-based approach that provides clarity to business and drives real change for people in modern slavery.

The Commissioner recommends amending the Act to introduce:

1. A mandatory, risk-based modern slavery due diligence obligation for reporting entities.
2. A mechanism for the Australian Anti-Slavery Commissioner to declare that a product, service or industry carries a high risk of modern slavery, and require entities to have regard to declarations in their due diligence and reporting obligations under the Act.

Australia now has an opportunity to mature its response to modern slavery and to design smart regulation that protects people at risk of exploitation, supports responsible business, and ensures Australia keeps pace with global efforts to eradicate modern slavery.

# Introduction

We all deserve safe work and fair wages that allow us to live a good life.

## Australian Anti-Slavery Commissioner

Australia's inaugural federal Anti-Slavery Commissioner, Chris Evans, was appointed in November 2024. The primary purpose of the Australian Anti-Slavery Commissioner (**Commissioner**) is to provide an independent pillar to strengthen Australia's response to modern slavery and human trafficking.

The Commissioner's statutory functions include supporting business to address modern slavery risks and advocating to Government on matters relating to modern slavery, including for continuous improvement in policy and practice.

## Purpose and scope of this initial position paper

**Australia's growth should be built on innovation, not exploitation.** Australia now stands at a critical moment in its response to modern slavery.

The **Australian Government is currently undertaking targeted consultations on two potential reforms** to the *Modern Slavery Act 2018 (Cth)* (**Act**) recommended by the independent statutory review of the Act conducted by Professor John McMillan (**McMillan Review**).<sup>1</sup>

These reforms are:

- the introduction of a due diligence obligation, and
- a mechanism to declare certain matters as carrying a high risk of modern slavery

This initial position paper sets out the Commissioner's views on why these two reforms are needed and makes recommendations regarding their design. **Its purpose is to help inform stakeholders' consideration of the reforms under consultation.** The Commissioner's focus is on reforms that are pragmatic and effective in driving meaningful change.

The Commissioner will seek feedback on the recommendations in this initial position paper to inform the Commissioner's final views and recommendations to the Government. As such, **the views and recommendations outlined in this paper may evolve after considering stakeholder feedback.** The Commissioner encourages all stakeholders to engage in this important reform conversation.

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<sup>1</sup> John McMillan, *Report of the Statutory Review of the Modern Slavery Act 2018 (Cth): The First Three Years*. (Commonwealth of Australia, 2023) (**McMillan Review**).

**Please note:** The Commissioner is an independent statutory officer. The targeted consultations on reforms to the Act are being conducted by the Attorney-General's Department, which has responsibility for the Act and its reform.

The **scope** of this initial position paper is limited to the two reforms currently within the scope of the Government's consultation. The consultation does not address other important reforms to address modern slavery in supply chains, including those outlined in the Commissioner's Strategic Plan 2025–2028,<sup>2</sup> such as regulatory measures to prevent the importation of goods made with forced labour. These matters are expressly out of scope of the Government's current consultation. The Commissioner remains committed to advocating for such measures, and for other relevant legal and policy reforms.

## Required reforms to the *Modern Slavery Act 2018 (Cth)*

**The Act's current reporting-based framework is not up to the challenge of tackling forced labour and other forms of modern slavery, and is failing vulnerable workers.** While the Act's reporting requirement has led to greater transparency and awareness of modern slavery, it has resulted in limited consistent and effective action from reporting entities to address modern slavery.

**It is time to move beyond reporting alone and require large businesses and other reporting entities under the Act to take reasonable and proportionate action to manage their modern slavery risks.** This would provide much-needed direction to businesses on modern slavery, and incentivise businesses to mature their controls and processes to manage these risks, alongside existing processes to manage other social and environmental risks.

Once a leader in combating modern slavery, Australia is now falling behind its international trading partners in efforts to enact effective regulation to address this serious crime and grave human rights violation.

The Australian Government now has an opportunity to design smart regulation that protects people most at risk of exploitation, creates a level playing field for business, and provides clearer guidance on goods and services that present a high risk of modern slavery.

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<sup>2</sup> See Office of the Australian Anti-Slavery Commissioner, *Building Australia's Ambition and Impact: Strengthening the response to modern slavery, Strategic Plan 2025-2028* (2025), 17, <https://www.antislaverycommissioner.gov.au/system/files/2025-10/strategic-plan-2025-2028.pdf>.

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## RECOMMENDATIONS

Amend the Act to introduce:

1. A mandatory, risk-based, modern slavery due diligence obligation for reporting entities.
2. A mechanism for the Australian Anti-Slavery Commissioner to declare that a product, service, or industry carries a high risk of modern slavery, and require entities to have regard to declarations in their due diligence and reporting obligations under the Act.

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Together, these reforms would help reporting entities, first, to identify their modern slavery risks more effectively and, second, to take targeted action in response.

## Benefits of the recommended reforms

Implementing these recommended reforms would:

- **improve outcomes for vulnerable workers** in the supply chains of large businesses
- enhance Australian **consumer confidence** that the goods and services are not produced under conditions of serious exploitation
- help prevent **ethically questionable goods from entering the Australian market**
- provide **greater clarity** for large businesses and other reporting entities regarding modern slavery risk management expectations, consistent with other areas of sustainability risk management
- support Australian businesses and the Government to **better identify, prevent and mitigate modern slavery risks, and to build more sustainable and resilient supply chains**
- **create a fair and level playing field for large businesses and other reporting entities to take effective action to address modern slavery**, reducing the risk that responsible businesses are undercut
- **harmonise Australia's approach** with key international standards on business and human rights and emerging regulatory frameworks in other markets, thereby reducing regulatory complexity for businesses operating in multiple jurisdictions
- support Australian businesses to **remain competitive in key markets** and meet the evolving expectations of customers, investors, business partners, and regulators internationally
- position the **Australian Government to keep pace with international efforts** to address modern slavery in supply chains, and to align more closely with other laws on responsible business conduct.

# The problem and background

## The scale of the problem

**Modern slavery is widespread in the global economy, including across the supply chains of Australian companies.** An estimated 27.6 million people, including children, are living and working in forced labour globally, including 3.9 million in state-imposed forced labour.<sup>3</sup> More than half of the world's forced labour is in the Asia-Pacific region,<sup>4</sup> where many Australian business supply chains are located. In 2022, the number of people in forced labour had increased by 2.7 million since 2016, driven by forced labour in the private economy.<sup>5</sup>

**Modern slavery not only harms victims, but also represents a fast-evolving business and legal risk that distorts markets and undercuts responsible business practices.** Estimates indicate that **Australia imports approximately US\$17.4 billion worth of products each year that are at risk** of being made with forced labour.<sup>6</sup> The top five categories of products most at-risk are electronics, garments, solar panels, textiles and fish.<sup>7</sup>

**No sector or country is immune.** This includes Australia, where modern slavery risks are most prevalent in sectors that rely on vulnerable migrant workforces, including horticulture, agriculture, construction, meat processing, cleaning and food services.

**Inaction on modern slavery creates significant economic costs.** The International Labour Organization estimates that forced labour generates US\$236 billion annually in illegal profits, including from unpaid wages.<sup>8</sup> In NSW alone, the cost to the economy associated with modern slavery is estimated to be up to AUD\$9.6 billion.<sup>9</sup>

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<sup>3</sup> International Labour Organization (ILO), Walk Free, and International Organization for Migration (IOM), *Global Estimates of Modern Slavery: Forced Labour and Forced Marriage* (Geneva: ILO, 2022), 2, 4, [https://www.ilo.org/sites/default/files/wcmsp5/groups/public/@ed\\_norm/@ipecc/documents/publication/wcms\\_854733.pdf](https://www.ilo.org/sites/default/files/wcmsp5/groups/public/@ed_norm/@ipecc/documents/publication/wcms_854733.pdf).

<sup>4</sup> International Labour Organization (ILO), Walk Free and International Organization for Migration (IOM), *Global Estimates of Modern Slavery: Forced Labour and Forced Marriage* (2022), 3.

<sup>5</sup> International Labour Organization (ILO), Walk Free and International Organization for Migration (IOM), *Global Estimates of Modern Slavery: Forced Labour and Forced Marriage* (2022), 2, 4.

<sup>6</sup> Walk Free, *The Global Slavery Index 2023* (2023), 154, <https://cdn.walkfree.org/content/uploads/2023/05/17114737/Global-Slavery-Index-2023.pdf>.

<sup>7</sup> Walk Free, *The Global Slavery Index 2023* (2023), 154.

<sup>8</sup> International Labour Organization, *Profits and poverty: The economics of forced labour* (2014), 1, <https://www.ilo.org/publications/major-publications/profits-and-poverty-economics-forced-labour>.

<sup>9</sup> Office of the NSW Anti-slavery Commissioner, *Building Freedom Together: NSW Anti-slavery Commissioner's Annual Report Financial Year 2024–2025* (2025), 26, [https://dcj.nsw.gov.au/documents/legal-and-justice/our-commissioners/anti-slavery-commissioner/DCJ1116\\_210x297\\_OASC\\_Annual\\_Report\\_2025-Digital-FA.pdf](https://dcj.nsw.gov.au/documents/legal-and-justice/our-commissioners/anti-slavery-commissioner/DCJ1116_210x297_OASC_Annual_Report_2025-Digital-FA.pdf).

## Limitations of the Act's reporting-based framework

**While progress has been made, reporting alone has proved insufficient to drive meaningful change to protect vulnerable workers.**<sup>10</sup> The Act requires large entities (with annual consolidated revenue of AUD\$100 million or more) and the Australian Government to report annually on the steps they are taking to identify and address modern slavery risks in their operations and supply chains, but does not presently *require* any action beyond reporting.

In 2023, the McMillan Review found widespread agreement that the Act had not led to meaningful change. The Review made 30 recommendations to strengthen the Act,<sup>11</sup> including the introduction of a high-risk declaration mechanism and a mandatory due diligence system.

**The Act has not driven consistent or effective action by reporting entities to manage modern slavery risks.** The Act was passed with multi-partisan support in 2018 and was an important milestone in the fight against modern slavery. It has increased awareness of modern slavery risks in corporate Australia and, to some extent, improved transparency about how business and the Government are responding to those risks. However, the quality of reporting and the extent of effective risk management action remain extremely mixed. Despite the known prevalence of modern slavery, over the last six reporting years only a small number of entities have disclosed identifying or remediating modern slavery in their operations or supply chains.

**Businesses require a level playing field to take effective action.** While some leading businesses are demonstrating that they are undertaking due diligence in line with international standards and the Government's guidance for reporting entities under the Act (**Government Guidance**),<sup>12</sup> many others are falling short. A key reason for this is that while reporting is mandatory, taking action to address modern slavery is not. The Act does not require reporting entities to take any minimum steps to address modern slavery risks, even where risks are identified.<sup>13</sup>

There are also no penalties for failure to report or for poor-quality reporting. Reporting entities can currently technically comply with the Act by reporting little or no meaningful action to identify and address risks. As a result, compliance-driven or 'tick-box' responses are common.

**Businesses require clear expectations on modern slavery risk management from Government in order to provide certainty as to the steps they should be taking to address**

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<sup>10</sup> Samuel Pryde, Justine Nolan, Shelley Marshall, Andrew Kach, Martijn Boersma, Fiona McGaughey and Vikram Bhakoo, "Understanding Remedy under the Australian Modern Slavery Act: From Conceptualisation to Provision of Remedy," *Journal of Modern Slavery* 9, no. 1 (2024): 70-95, <https://doi.org/10.26153/tsw/51549>; Zairul Nurshazana Zainuddin, John Dumay and Binh Bui, "A Critical Review of Modern Slavery Disclosure Legislation: An Academic Response to Australia's Modern Slavery Act 2018," *Meditari Accountancy Research* 33, no.3 (2025): 1052-1077, <https://doi.org/10.1108/MEDAR-03-2025-2931>. See further discussions about weaknesses of the Act in: Surya Deva, *Options for Action: Building an Effective Response to Modern Slavery in Australia* (2025), 23-24, <https://www.antislaverycommissioner.gov.au/system/files/2025-12/building-an-effective-response-to-modern-slavery-in-australia.pdf>.

<sup>11</sup> John McMillan, *Report of the Statutory Review of the Modern Slavery Act 2018 (Cth): The First Three Years*. (Commonwealth of Australia, 2023), <https://www.ag.gov.au/crime/publications/report-statutory-review-modern-slavery-act-2018-cth>.

<sup>12</sup> Attorney-General's Department, *Commonwealth Modern Slavery Act 2018 Guidance for Reporting Entities*, (2019 and 2023), <https://www.modernslavery.gov.au/guidance-training-resources/resources/official-modern-slavery-act-guidance>.

<sup>13</sup> Zainuddin et al, "A Critical Review of Modern Slavery Disclosure Legislation: An Academic Response to Australia's Modern Slavery Act 2018," (2025); Surya Deva, *Options for Action: Building an Effective Response to Modern Slavery in Australia* (2025), 23-24.

**this risk area.** The Government has not created clear obligations relating to modern slavery, resulting in uncertainty and uneven practice around modern slavery risk management across the business landscape. Introducing modern slavery due diligence obligation would support businesses to integrate modern slavery risks into existing governance and risk management frameworks, with a clear focus on risks to people and the effectiveness of actions taken, consistent with key international standards.

**A due diligence approach will also facilitate greater alignment with other business risk management and sustainability approaches.** The Government has established clear obligations in relation to other responsible business conduct issues, such as climate-related risk management and reporting, other social risk areas such as gender pay equity, sexual harassment and work health and safety. Introducing a modern slavery due diligence obligation would help facilitate a more coherent approach by business to managing ESG risks.

## Australia is falling behind international efforts

**Globally, expectations on business to take action to address modern slavery are increasing.** A growing number of countries are introducing laws that go beyond transparency and reporting, and instead require concrete action to identify, prevent, and mitigate human rights risks, including modern slavery.

**There is a clear global trend towards the introduction of mandatory human rights due diligence obligations for large businesses.**<sup>14</sup> Mandatory due diligence laws already exist in the European Union (EU), Germany, France, Norway, and Switzerland, and are under consideration in the United Kingdom,<sup>15</sup> Canada, South Korea, Thailand, and Indonesia.<sup>16</sup> These laws generally require large businesses to take action to identify, prevent, mitigate and, where appropriate, remediate their modern slavery (and other human rights) risks and impacts, prioritising action on the most severe risks and impacts through the implementation of a risk-based due diligence process.

These laws are grounded in the due diligence expectations for business set out in two authoritative international standards: the *UN Guiding Principles on Business and Human Rights (UNGPs)* and the *OECD Guidelines for Multinational Enterprises on Responsible Business Conduct (OECD Guidelines)*.<sup>17</sup>

These regulatory developments will have increasing direct and indirect impacts on Australian businesses with global supply chains, including heightened scrutiny of how they manage

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<sup>14</sup> Surya Deva, *Options for Action: Building an Effective Response to Modern Slavery in Australia* (2025).

<sup>15</sup> Independent Anti-Slavery Commissioner, *Strengthening the UK's Forced Labour and Human Rights Legislative Framework* (2025), <https://www.antislaverycommissioner.co.uk/media/3wnnpb53/report-strengthening-the-uk-forced-labour-and-human-rights-legislative-framework-final-clean.pdf>.

<sup>16</sup> See: Office of the Australian Anti-Slavery Commissioner and Norton Rose Fulbright, *EU regulatory developments on human rights: Implications for Australian businesses* (2025), <https://www.antislaverycommissioner.gov.au/publications/eu-regulatory-developments-human-rights-implications-australian-businesses>.

<sup>17</sup> United Nations Office of the High Commissioner for Human Rights, *Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework* (United Nations, 2011), [https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinessshr\\_en.pdf](https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinessshr_en.pdf) (UNGPs); OECD, *OECD Guidelines for Multinational Enterprises on Responsible Business Conduct*, (OECD Publishing: 2023), <https://doi.org/10.1787/81f92357-en> (OECD Guidelines).

modern slavery risks. In the coming years, the trickle-down effect of emerging laws, in particular the EU-wide mandatory human rights due diligence law, the Corporate Sustainability Due Diligence Directive, are expected to be increasingly felt by Australian businesses. In particular, it is expected that businesses whose products and services ultimately enter the EU market will increasingly be required to demonstrate effective modern slavery (and other human rights) risk management in order to meet customer, investor and regulatory expectations.

In addition, several major trading partners, including the United States (US), the EU, Canada and Mexico, expressly prohibit goods made with forced labour from entering their markets, regardless of country of origin. As a result, **Australia faces a growing risk of becoming a dumping ground for goods made with forced labour that are banned elsewhere.** For example, certain goods or materials that are subject to import restrictions in the United States due to forced labour risks, including certain bicycles,<sup>18</sup> seafood,<sup>19</sup> clothing,<sup>20</sup> cotton, and polysilicon,<sup>21</sup> are currently able to enter the Australian market. These import bans also have implications for Australian businesses exporting goods to countries adopting these measures, and supplying to businesses that operate in these markets.

Further analysis of international trends towards mandatory due diligence laws and forced labour import bans is set out in Professor Surya Deva's paper, *Options for action: Building an effective response to modern slavery in Australia* (December 2025),<sup>22</sup> and in the Office's joint publication with Norton Rose Fulbright, *EU regulatory developments on human rights: Implications for Australian businesses* (September 2025).<sup>23</sup>

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<sup>18</sup> U.S. Customs and Border Protection, "CBP Issues Withhold Release Order on Giant Manufacturing Co. Ltd.," National Media Release, September 24, 2025, U.S. Customs and Border Protection, <https://www.cbp.gov/newsroom/national-media-release/cbp-issues-withhold-release-order-giant-manufacturing-co-ltd>.

<sup>19</sup> U.S. Customs and Border Protection, *Notice of Finding That Certain Seafood Harvested by the Taiwanese Da Wang Fishing Vessel With the Use of Convict, Forced or Indentured Labor Is Being, or Is Likely To Be, Imported Into the United States in Violation of 19 U.S.C. 1307*, 87 Fed. Reg. 4634 (January 28, 2022).

<sup>20</sup> U.S. Customs and Border Protection, "CBP Issues Withhold Release Order on Firemount Group Ltd.," National Media Release, November 18, 2025, U.S. Customs and Border Protection, <https://www.cbp.gov/newsroom/national-media-release/cbp-issues-withhold-release-order-firemount-group-ltd>.

<sup>21</sup> U.S. Department of Homeland Security, *UFLPA Entity List*, U.S. Department of Homeland Security, accessed January 29, 2026, <https://www.dhs.gov/uflpa-entity-list>.

<sup>22</sup> Surya Deva, *Options for Action: Building an Effective Response to Modern Slavery in Australia* (2025).

<sup>23</sup> Office of the Australian Anti-Slavery Commissioner and Norton Rose Fulbright, *EU Regulatory Developments on Human Rights: Implications for Australian Businesses* (2025), <https://www.antislaverycommissioner.gov.au/publications/eu-regulatory-developments-human-rights-implications-australian-businesses>.

## United Kingdom

The United Kingdom's Independent Anti-Slavery Commissioner (UK IASC) has proposed the introduction of a mandatory human rights due diligence law. In December 2025, the UK IASC published a report<sup>24</sup> recommending:

1. the introduction of a mandatory human rights due diligence law, based on a 'duty to prevent' model, which is the regulatory model used in the *Bribery Act 2010* (UK) and the *Economic Crime and Corporate Transparency Act 2023* (UK)
2. the introduction of a ban on the import of goods made with forced labour.

The proposed due diligence obligation for the UK is broader than the modern slavery-focused due diligence obligation recommended in this paper as it addresses a wider range of serious human rights harms. The UK IASC's proposals follow a range of UK Parliamentary Committee reports recommending the introduction of a mandatory due diligence obligation and a forced labour import ban.<sup>25</sup>

**Other governments are also taking steps to support businesses to better understand and prioritise modern slavery risks.** In the US, the Bureau of International Labor Affairs publishes a biannual list of more than 200 goods from dozens of countries that are believed to be produced using child or forced labour. Similarly, the EU is developing a database of forced labour risk areas and products to help businesses identify forced labour risks in their supply chains, as part of its new forced labour import ban.<sup>26</sup>

## Other Australian laws expect due diligence

**A mandatory modern slavery due diligence obligation already applies to all NSW government entities.** The NSW Government spends around \$40 billion on procurement each year.<sup>27</sup> NSW government agencies are required to undertake due diligence on modern slavery risks in procurement through a statutory 'reasonable steps' obligation under the *Modern Slavery Act 2018* (NSW) and related legislation, supported by annual reporting requirements.<sup>28</sup>

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<sup>24</sup> Independent Anti-Slavery Commissioner, *Strengthening the UK's Forced Labour and Human Rights Legislative Framework* (2025), <https://www.antislaverycommissioner.co.uk/media/3wnnpb53/report-strengthening-the-uk-forced-labour-and-human-rights-legislative-framework-final-clean.pdf>.

<sup>25</sup> UK Business and Trade Committee, *Make Work Pay: Employment Rights Bill – Third Report of Session 2024-25 HC370*, (House of Commons, 2025), at [85] – [86], <https://publications.parliament.uk/pa/cm5901/cmselect/cmbeis/370/report.html#heading-4>; UK Modern Slavery Act 2015 Committee, *The Modern Slavery Act 2015: becoming world-leading again*, (Lords Select Committee, 2024), Chapter 5 at [227], [231] and [239] <https://publications.parliament.uk/pa/ld5901/ldselect/ldmodslav/8/802.htm>; UK Joint Committee on Human Rights, "Forced Labour in UK Supply Chains" (UK Parliament), at [31], <https://publications.parliament.uk/pa/jt5901/jtselect/jtrights/633/report.html>.

<sup>26</sup> *Regulation of the European Parliament and of the Council on Prohibiting Products Made with Forced Labour on the EU Market 2024* (EU).

<sup>27</sup> Minister for Domestic Manufacturing and Government Procurement, "Additional Steps to Combat Modern Slavery in NSW Government Procurement," NSW Government, December 11, 2025, <https://www.nsw.gov.au/ministerial-releases/additional-steps-to-combat-modern-slavery-nsw-government-procurement#:~:text=%E2%80%9CThe%20NSW%20Government%20is%20committed.contracting%2C%20in%20months%20ahead.%E2%80%9D>.

<sup>28</sup> *Public Works and Procurement Act 1912* (NSW).

**Due diligence style obligations are also found in other Australian laws on responsible business conduct.** These include obligations relating to work health and safety, foreign bribery, privacy, illegal logging, environmental harms, sex discrimination and online safety.<sup>29</sup> A due diligence obligation is also under consideration as part of the proposed ‘digital duty of care’ framework.

## Australia’s opportunity for reform

There is increasing recognition across government, business, and civil society that a more robust, risk-based and outcomes-focused regulatory framework is needed to address modern slavery.

In its 2024 response to the McMillan Review, the Government committed to consulting with stakeholders on a number of recommended law reform measures, including the introduction of a high-risk declaration mechanism and a mandatory due diligence system. Consultations on these measures, led by the Attorney-General’s Department, commenced in late 2025 and are continuing into early 2026. This process presents a timely opportunity to design an effective, pragmatic, and proportionate regulatory response that delivers tangible outcomes for people in modern slavery.

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<sup>29</sup> *Crimes Legislation Amendment (Combatting Foreign Bribery) Act 2024* (Cth) amending the *Criminal Code Act 2001* (Cth) to introduce new s70.5A; *Sex Discrimination Act 1984* (Cth), s47C; *Anti-Money Laundering and Counter Terrorism Financing Act 2006* (Cth), s36; *Illegal Logging Prohibition Act 2012* (Cth), s14; *Environment Protection and Biodiversity Conservation Act 1999* (Cth), s494B(1); *Work Health and Safety Act 2011* (Cth); *Australian Privacy Act 1988* (Cth) and *Australian Privacy Principle 11*; *Autonomous Sanctions Act 2011* (Cth), s16(7); *Online Safety Amendment (Social Media Minimum Age) Act 2024* (Cth), s63D. There are also a range of similar provisions in state laws.

# Introduce a modern slavery due diligence obligation

The Government should require reporting entities under the Act to move beyond transparency and take reasonable action to address their modern slavery risks.

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## RECOMMENDATION 1

Amend the Act to introduce a mandatory, risk-based, modern slavery due diligence obligation for reporting entities.

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The Act should be amended to build on the existing reporting framework by introducing a mandatory, risk-based modern slavery-focused due diligence obligation. This obligation should require reporting entities, including the Australian Government, to demonstrate that they are taking reasonable steps to identify, prevent and address modern slavery in their operations and supply chains, in line with key international standards. The goal of the due diligence obligation is to reduce the risk of harm to people, by incentivising entities to proactively manage their modern slavery risks, and encouraging the identification and remediation of modern slavery.

## How would the due diligence obligation work?

### *Principles*

A modern slavery-focused due diligence obligation should reflect the following principles.

1. **Alignment with international standards** – The obligation should align with the expectations of business set out in internationally recognised standards on business and human rights, in particular the *UN Guiding Principles on Business and Human Rights* (UNGPs) and the *OECD Guidelines for Multinational Enterprises on Responsible Business Conduct* (OECD Guidelines).
2. **Be pragmatic and harmonised** – Where possible, the obligation should align with similar regulations internationally, in order to reduce regulatory complexity for business, and support Australian businesses to remain competitive in global markets.
3. **Focus on outcomes, not just process** – The obligation should focus not only on procedural compliance, but on actions that drive meaningful outcomes over time for

people affected by modern slavery, in order to avoid a purely compliance-driven or ‘tick-box’ approach.

4. **Proportionality and avoidance of unintended consequences** – The framework should include safeguards to avoid creating disproportionate burdens or unintended consequences, particularly for suppliers that are small and medium-sized enterprises and suppliers in the Global South.

## Elements

The due diligence obligation should include elements in the below Table 1.<sup>30</sup>

Table 1: Due diligence obligation	
Element	Explanation
Application and phase in <sup>31</sup>	<ul style="list-style-type: none"> <li>• There should be a <b>2-year phase-in period</b> for all reporting entities under the Act (more than \$100 million consolidated revenue), including the Australian Government.</li> <li>• The obligation should then come into effect, with a <b>graduated approach to enforcement</b>, allowing time for reporting entities to fully understand and implement this obligation.</li> </ul>
Due diligence obligation	<p><b>Note:</b> ‘Due diligence means’ human rights due diligence and related remediation processes as outlined in key international standards: the UNGPs and OECD Guidelines.<sup>32</sup> Human rights due diligence is <b>risk-based</b> and focuses on risks to people not just to business, meaning entities should prioritise the most severe and likely risks to people for action. It should also be <b>proportionate</b> to the entity’s size, operating context, ownership, and structure and commensurate with the severity and likelihood of the entity’s modern slavery risks and impacts. Risk-based due diligence allows <b>flexibility to entities</b> to tailor their efforts to what is proportionate to their specific circumstances.</p> <p><i>Obligation</i></p> <ul style="list-style-type: none"> <li>• <b>Entities must carry out due diligence to identify, prevent, and address modern slavery</b> in their operations and supply chains.</li> </ul>

<sup>30</sup> See additional commentary about key considerations and potential elements of a due diligence obligation in: Surya Deva, *Options for Action: Building an Effective Response to Modern Slavery in Australia* (2025), 25-27.

<sup>31</sup> The proposed application and phase-in reflects the fact that the Act already requires reporting entities to report on their ‘actions including due diligence and remediation processes’, and reporting entities have been socialised to the due diligence framework via the Government Guidance over the past six years.

<sup>32</sup> The due diligence obligation should align with the human rights due diligence and remediation expectations of business outlined in the UNGPs and OECD Guidelines. To facilitate regulatory harmonisation, where possible the obligation should also reflect the expectations in similarly aligned laws, such as the EU Corporate Sustainability Due Diligence Directive. See for example the EU Corporate Sustainability Due Diligence Directive, Articles 7 -17.

**Table 1: Due diligence obligation**

Element	Explanation
	<ul style="list-style-type: none"> <li>• This means taking <b>reasonable measures</b> to:               <ol style="list-style-type: none"> <li>1. <b>Embed due diligence</b> into policies and systems</li> <li>2. <b>Identify and assess</b> modern slavery risks and impacts, <b>prioritising</b> the most severe and likely risks of harm to people for action</li> <li>3. <b>Take action to address risks and impacts</b>, including <b>ceasing, preventing, or mitigating</b> risks and impacts<sup>33</sup></li> <li>4. <b>Track</b> the implementation and <b>effectiveness</b> of actions taken<sup>34</sup></li> <li>5. <b>Communicate how risks are addressed</b> including by reporting on each of these steps (1-8) in an annual modern slavery statement</li> <li>6. Have <b>grievance mechanisms</b> available to receive concerns about the risks or impacts connected to the entity’s operations or supply chain</li> <li>7. <b>Provide for, or cooperate in remediation</b> where the entity has caused or contributed to harm, <b>or use its leverage to influence remediation</b> where it is directly linked to harm<sup>35</sup></li> <li>8. Conduct ongoing, <b>meaningful stakeholder engagement</b>.<sup>36</sup></li> </ol> </li> </ul> <p>The Act and /or official supporting guidance should provide detail on how to determine what is ‘<b>reasonable</b>’,<sup>37</sup> including:</p> <ol style="list-style-type: none"> <li>1. details and examples of controls, processes and actions to reasonably implement steps 1-8 (above), potentially with indicators of maturity</li> <li>2. factors and indicators relevant to reasonableness, such as: entity size, severity and likelihood of risk, proximity to risk, what the entity knew or should have reasonably known, and cost and practicability of mitigating measures and other relevant factors.</li> </ol>

<sup>33</sup> This also includes taking appropriate steps to bring modern slavery impacts to an end. See for example Articles 10 and 11 of the EU Corporate Sustainability Due Diligence Directive.

<sup>34</sup> Indicators of effectiveness should include qualitative and quantitative indicators, with particular focus on driving outcomes for people.

<sup>35</sup> The terms ‘cause’, ‘contribute’ and ‘directly linked’ are not legal terms. They are explained in more detail in the UNGPs, the OECD Guidelines and in the Government’s Guidance.

<sup>36</sup> The due diligence process, including remediation, should include meaningful stakeholder engagement. This includes engagement with relevant stakeholders such as workers and their legitimate representatives. The OECD Guidelines define meaningful stakeholder engagement as ‘ongoing engagement with stakeholders that is two-way, conducted in good faith by the participants on both sides and responsive to stakeholders’ views.’ See OECD Guidelines, Chapter II General Policies, 20 at [28].

<sup>37</sup> As modern slavery risks are dynamic, and supply chains, technologies, enterprise risk management and good practice will evolve, what is considered ‘reasonable’ will also evolve, and should be reflected in periodic updates to the official supporting guidance over time.

**Table 1: Due diligence obligation**

Element	Explanation
	<p>Official supporting guidance will be essential, and exists for similar obligations such as those relating to foreign bribery and sexual harassment.<sup>38</sup> Official supporting guidance tailored to key high risk sectors may also be useful, as would illustrative case studies for different contexts, recognising that implementing effective actions may take time.</p>
<p><b>Demonstrating compliance</b></p>	<ul style="list-style-type: none"> <li>• Entities should <b>report on the ‘reasonable steps’</b> taken in modern slavery statements.</li> <li>• <b>Record keeping</b> should also be used to demonstrate compliance, if needed.</li> </ul> <p><b>Note:</b> While transparent reporting is an important aspect of a due diligence obligation, it should not outweigh action. The Government’s design of the due diligence obligation should prompt entities to direct resources towards the ‘doing’ and ‘outcomes’ of due diligence while maintaining accountability through disclosure. See also related reporting requirements in modern slavery statements in relation to high-risk declarations below.</p>
<p><b>Options to target non-compliance</b></p>	<ul style="list-style-type: none"> <li>• A <b>regulator should be appointed to monitor and investigate compliance with</b> the due diligence obligation, including the reporting requirement.</li> <li>• Following a <b>complaint or on its own initiative</b>, the regulator should have powers to consider an entity’s failure to: <ul style="list-style-type: none"> <li>• implement one or more steps in the due diligence process</li> <li>• carry out reasonable due diligence in the all the circumstances</li> <li>• report on action taken in relation to each of the steps of the due diligence process.</li> </ul> </li> <li>• <b>Powers of the regulator</b> that should be considered include: <ul style="list-style-type: none"> <li>• dialogue and education</li> <li>• requests for information</li> <li>• monitoring and investigation</li> <li>• issuing improvement and infringement notices</li> <li>• application to court for civil penalties or injunctions.</li> </ul> </li> </ul>

<sup>38</sup> See for example Attorney-General’s Department, *Guidance on Adequate Procedures to Prevent the Commission of Foreign Bribery*, published 28 August 2024, Australian Government, <https://www.ag.gov.au/crime/publications/guidance-adequate-procedures-prevent-commission-foreign-bribery> and Australian Human Rights Commission, *Guidelines for Complying with the Positive Duty under the Sex Discrimination Act 1984 (Cth)* (August 2023), <https://humanrights.gov.au/sites/default/files/2023-08/Guidelines%20for%20Complying%20with%20the%20Positive%20Duty%20%282023%29.pdf>.

Table 1: Due diligence obligation	
Element	Explanation
	<ul style="list-style-type: none"> <li>• The regulator should <b>promote an initial ‘learning phase’ approach</b> to enforcement of the due diligence obligation.</li> <li>• The regulator should take a <b>responsive regulatory approach</b>, particularly where an entity has allegedly failed to take one or more of the reasonable steps in the due diligence process. This would allow: <ul style="list-style-type: none"> <li>• a <b>progressive approach</b> to responding to non-compliance, starting with ‘softer’ options and escalating to more punitive responses in the case of serious breaches or ongoing or repeated non-compliance</li> <li>• <b>recognition of good faith efforts</b> to comply and improve over time, and taking a context specific approach.</li> </ul> </li> <li>• Existing regulators should be prioritised to carry out these functions, following consideration of existing capacity, expertise and functions.</li> </ul>
Remedy	<ul style="list-style-type: none"> <li>• <b>Establish clear legal avenues for victims to access remedy</b> where modern slavery has occurred in connection with an entity’s failure to take reasonable steps to carry out due diligence, consistent with a <b>victim-centred approach</b>.</li> </ul>
Support	<ul style="list-style-type: none"> <li>• Provide <b>practical supporting guidance and capacity building</b> for reporting entities, and for suppliers (that are not reporting entities) in high-risk sectors.</li> </ul>
Review	<ul style="list-style-type: none"> <li>• Include a <b>statutory independent review of the effectiveness of the new the due diligence obligation</b> within 3-years after the due diligence obligation is in force.</li> </ul>

## Reducing risk of harm to people is at the heart of due diligence

**The identification of modern slavery risks and incidents is a key goal of a due diligence obligation.** Importantly, the presence of modern slavery in an entity’s operations or supply chains should not constitute a breach of the due diligence obligation. A well-designed due diligence obligation should actively *encourage* the identification (and remediation, as appropriate) of actual incidences of modern slavery and recognise detection and disclosure as indicators of a robust and effective due diligence process. This reflects the reality that, even where reasonable steps are taken to embed due diligence, entities can influence but cannot fully control behaviour across their complex supply chains. It is an entity’s negligent or wilful refusal to take reasonable steps and in particular, ignoring or failing to respond to known, severe and likely risks or actual modern slavery incidents, that should be the particular focus of a regulator.

Enforcement is currently the missing piece in Australia’s regulatory response to modern slavery and is necessary to level the playing field and drive change particularly amongst reporting entities that have not invested in modern slavery risk management.

One example of a similar regulatory function to the one proposed above is the role of the Australian Human Rights Commission (**AHRC**) in enforcing the ‘positive duty’ under the *Sex Discrimination Act 1984* (Cth) for employers to take “reasonable and proportionate measures” to eliminate, as far as possible, certain conduct such as sex discrimination and sexual harassment. The AHRC’s powers include issuing guidance, conducting inquiries into non-compliance, issuing compliance notices, applying to court to enforce compliance, and entering into enforceable undertakings with employers.

## What a due diligence obligation means for reporting entities

**The human rights due diligence framework is already familiar to many large businesses operating in Australia.** Over the past six years, reporting entities under the Act have been socialised to human rights due diligence as the recommended framework for managing modern slavery risks, through the Government Guidance.<sup>39</sup> This guidance expressly and extensively draws on human rights due diligence processes outlined in the UNGPs and OECD Guidelines, which detail the steps businesses should take to manage modern slavery risks.

The Government Guidance emphasises that: ‘Investors, business peers, clients, civil society and governments expect you to understand and apply the UN Guiding Principles in your response to modern slavery.’<sup>40</sup>

Leading businesses in Australia are already actively implementing modern slavery-focused due diligence, to varying extents, to manage their modern slavery risks.

**Therefore, a due diligence obligation is unlikely to require significant changes for businesses and other entities already meaningfully responding to the Act by implementing due diligence in line with the UNGPs, but will create a level playing field for doing so.** Such an obligation would effectively crystallise the Government’s recommendations for entities reporting under the Act into a legal obligation. This means leading businesses already managing their modern slavery risks via a due diligence process will require limited, if any, changes to their practices. However, reporting entities that have not been taking meaningful action to address their risks would be required to take reasonable action to strengthen their processes.

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<sup>39</sup> While due diligence is not currently required by the Act, the reporting criteria require disclosure of actions taken to address modern slavery ‘including due diligence’. The Government’s guidance for entities reporting under the Act highlights that ‘due diligence’ means ‘human rights due diligence’ in line with key international standards on responsible business conduct such as the UNGPs and OECD Guidelines.

<sup>40</sup> Attorney-General’s Department, *Commonwealth Modern Slavery Act 2018 Guidance for Reporting Entities*, (2019 and 2023), <https://www.modernslavery.gov.au/guidance-training-resources/resources/official-modern-slavery-act-guidance>.

**Examples of modern slavery-focused due diligence measures** include, but are not limited to:<sup>41</sup>

- adoption, implementation, and integration of modern slavery policies into business practice and existing enterprise risk management systems
- conducting modern slavery risk assessments
- regular board reporting, and assigning senior leadership responsibility
- conducting training on modern slavery for employees and contractors
- ongoing, meaningful stakeholder engagement to inform due diligence and remediation processes, including with potentially affected workers and their representatives
- supplier screening and proactive due diligence during procurement, including considering purchasing practices
- use of modern slavery-related contractual clauses that adopt a shared responsibility approach to risk management, and proactive contract management
- supplier engagement and supporting suppliers to manage risks through targeted and risk-specific training
- auditing higher-risk suppliers both in Australia and overseas
- engaging external investigators or third parties to investigate higher-risk supply chains where there are known red flags
- establishing or participating in accessible grievance mechanisms
- worker voice initiatives
- participation in worker-driven social responsibility initiatives
- developing qualitative and quantitative effectiveness indicators, and tracking performance
- providing for, cooperating in, or leverage influence to facilitate remediation of harms where appropriate.

## Benefits of due diligence for business

**Implementing due diligence is not just the right thing to do, it also makes good business sense.** Leading businesses, both globally and in Australia, are already applying human rights due diligence to more effectively manage their human rights risks, including modern slavery, across their operations and supply chains.

Aligning the modern slavery due diligence obligation with the expectations set out in the UNGPs, OECD Guidelines and in similar due diligence laws elsewhere, creates a clear direction and legislative baseline for reasonable action on modern slavery based on accepted international standards. This approach would also help reduce regulatory complexity for businesses operating in multiple markets and position Australian businesses to:

- more effectively reduce risk of harm to workers in their operations and supply chains, in Australia and overseas

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<sup>41</sup> Office of the NSW Anti-slavery Commissioner, *Guidance on Reasonable Steps: NSW Anti-slavery Commissioner's Guidance on Reasonable Steps to Manage Modern Slavery Risks in Operations and Supply-Chains* (2023), <https://dcj.nsw.gov.au/documents/legal-and-justice/anti-slavery-commissioner/due-diligence-and-reporting/guidance-on-reasonable-steps.pdf>.

- facilitate a more coherent approach to managing sustainability risks
- maintain competitiveness in markets that are adopting more robust human standards
- improve supply chain resilience and transparency
- reduce legal, financial and reputational risks
- strengthen stakeholder relationships.

A five-year study carried out by United Nations Development Program (**UNDP**) and supported by the World Benchmarking Alliance, covering 235 global companies in high-risk sectors, found a positive link between improved human rights records of companies and asset efficiency (return on assets). The study highlights that every 10-percentage point increase in scores in the Corporate Human Rights Benchmark correlated with a 1% increase in return on assets.<sup>42</sup>

The Responsible Investor Association of Australia (**RIAA**) stated in 2025: ‘For investors, human rights due diligence can help to proactively identify issues before any incidents occur... RIAA recommends the Government continues its consultation and engagement to work towards an effective form of mandatory human rights due diligence for Australia.’<sup>43</sup>

**Due diligence is a shared responsibility.** A human rights due diligence approach emphasises working in partnership with suppliers to reduce shared modern slavery risks. Rather than divesting when issues are identified, a shared responsibility approach involves working together to address root causes of harm and prevent recurrence.

A risk-based approach to due diligence also means that risk management efforts are targeted towards a business’s most severe risks. This helps avoid disproportionate requests and requirements on low-risk suppliers and directs resources towards strengthening supplier capacity to manage risks where it is needed most.

**Collaboration on due diligence should be expressly encouraged.** The Commissioner recognises that efforts to address modern slavery are often more effective when undertaken in collaboration with business peers, suppliers, and other stakeholders. Research shows that effective collaboration can help businesses reduce costs and create a socially sustainable competitive advantage.<sup>44</sup> This is especially the case where modern slavery risks are shared and businesses can jointly invest in innovative approaches, build leverage together and drive changes at scale.

The Commissioner’s Office has recently partnered with the Australian Competition and Consumer Commission to produce guidance on collaborations to address modern slavery that

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<sup>42</sup> United Nations Development Programme, *Human Rights vs. Competitiveness – A False Dilemma? Data on the Financial Implications of Corporate Human Rights Performance* (2025), <https://www.undp.org/publications/human-rights-vs-competitiveness-false-dilemma>.

<sup>43</sup> Responsible Investment Association Australasia, *Submission – Attorney General’s Department – Strengthening the Modern Slavery Act* (2025), [https://cdn.prod.websitefiles.com/67a17dcc2362afe3723b9c97/68be57d1b70b66d0ba41c353\\_RIAA%20Submission%20-%20Strengthening%20the%20Modern%20Slavery%20Act.pdf](https://cdn.prod.websitefiles.com/67a17dcc2362afe3723b9c97/68be57d1b70b66d0ba41c353_RIAA%20Submission%20-%20Strengthening%20the%20Modern%20Slavery%20Act.pdf).

<sup>44</sup> Amy Benstead, Linda Hendry, and Mark Stevenson, "Horizontal Collaboration in Response to Modern Slavery Legislation: An Action Research Project," *International Journal of Operations & Production Management* 38, no. 12 (2018): 2286–2312, <https://doi.org/10.1108/IJOPM-10-2017-0611>.

are likely to be low-risk from a competition perspective.<sup>45</sup> The Commissioner recommends that the Government consider ways to facilitate increased collaboration on modern slavery, both generally and in the context of the introduction of a due diligence obligation and high-risk declaration mechanism (see further below). A key mechanism for facilitating increased collaboration would be the introduction of a competition law class exemption for modern slavery-related collaborative activities.

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<sup>45</sup> Australian Competition and Consumer Commission, *Sustainability collaborations and Australian competition law – quick guide*, (2025), <https://www.accc.gov.au/about-us/publications/sustainability-collaborations-and-australian-competition-law-quick-guide>.

# Introduce a mechanism to declare a product, service or industry as high-risk, and require entities to have regard in their due diligence and reporting

The Government should assist business to identify and understand key modern slavery risks by amending the Act to provide the Commissioner with statutory power to issue public “high-risk declarations.”

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## RECOMMENDATION 2

Amend the Act to introduce a mechanism for the Australian Anti-Slavery Commissioner to declare that a product, service or industry carries a high risk of modern slavery, and require entities to have regard to declarations in their due diligence and reporting obligations under the Act.

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### **An effective response to modern slavery requires entities are to effectively identify, assess and prioritise management of modern slavery risks in their operations and supply chains.**

The McMillan Review of the Act heard concerns about weak or inadequate identification and description of risks by reporting entities in their modern slavery statements.<sup>46</sup> Reports evaluating the impact of the Act have also found reporting entities were failing to identify modern slavery risks in their operations and supply chains, despite sourcing from recognised high-risk sectors and regions.<sup>47</sup>

The introduction of a mechanism to declare certain matters as ‘high-risk’ was a key recommendation of the McMillan Review. Professor McMillan noted such a mechanism would help improve modern slavery reporting by drawing the attention of entities to high-risk matters

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<sup>46</sup> McMillan Review, 63.

<sup>47</sup> See: Amy Sinclair and Freya Dinshaw, *Paper Promises? Evaluating the early impact of Australia’s Modern Slavery Act (2022)*, [https://www.hrlc.org.au/app/uploads/2025/04/Paper-Promises\\_Australia-Modern-Slavery-Act\\_7\\_FEB.pdf](https://www.hrlc.org.au/app/uploads/2025/04/Paper-Promises_Australia-Modern-Slavery-Act_7_FEB.pdf) and Freya Dinshaw et al., *Broken Promises: Two Years of Corporate Reporting under Australia’s Modern Slavery Act (2022)*, <https://www.hrlc.org.au/app/uploads/2025/04/2211-Broken-Promises-Modern-Slavery-Report.pdf>.

and improving the comparability and consistency of statements.<sup>48</sup> This recommendation was agreed ‘in principle’ by the Government in its response, which noted that:

‘Such a declaration would be consistent with the Anti-Slavery Commissioner’s function to support Australian entities and entities carrying on business in Australia to address risks of modern slavery practices in their operations and supply chains, and in the operations and supply chains of entities they own or control.’<sup>49</sup>

### Import controls

The statutory scope of the McMillan Review specifically excluded consideration of import controls, and so did not make recommendations on this topic. Similarly, the Government’s current consultation process does not include consideration of import measures.

However, as noted above, prohibitions on the import of goods made with forced labour have been introduced in the United States, European Union, Canada and Mexico, with similar bans under consideration elsewhere. Recent reports suggest that this has changed corporate sourcing and supply chain tracing practices to increase monitoring and assessment of supplier risks and that some exporters are bifurcating their supply chains, directing “clean” products to countries with tighter import controls.<sup>50</sup> Countries without forced labour import controls, including Australia, now face higher risk of becoming “dumping grounds” for goods made with forced labour.

While this position paper is focused on the high-risk declaration mechanism currently under consideration by the government, the Commissioner remains committed to pursuing other regulatory measures to effectively prevent the importation of goods made with forced labour.<sup>51</sup>

## A declaration mechanism supports due diligence

The high-risk declaration mechanism is a natural complement to both the Act’s existing reporting framework and the recommended due diligence obligation. It supports a targeted, risk-based approach to addressing modern slavery risks in Australian supply chains. Under the proposed model, the Commissioner would have statutory power to issue public “high-risk declarations”, based on transparent evidence and to provide recommendations for support and guidance.

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<sup>48</sup> McMillan Review, 100.

<sup>49</sup> Australian Government, *Australian Government Response to the Review Report of the Modern Slavery Act 2018 (Cth) (2024)*, 31.

<sup>50</sup> See Laura T. Murphy and Charlotte Tate, *Assessing the Impact of the Uyghur Forced Labor Prevention Act After Three Years* (Center for Strategic and International Studies, 29 August 2025), <https://www.csis.org/analysis/assessing-impact-uyghur-forced-labor-prevention-act-after-three-years>.

<sup>51</sup> See Office of the Australian Anti-Slavery Commissioner, *Building Australia’s Ambition and Impact: Strengthening the response to modern slavery, Strategic Plan 2025-2028* (2025), 17, <https://www.antislaverycommissioner.gov.au/system/files/2025-10/strategic-plan-2025-2028.pdf>.

Under the Commissioner’s proposed model, reporting entities would be required to have regard to these declarations when conducting due diligence and preparing their modern slavery statements. This would include explaining how they assessed declared risks in relation to their operations and supply chains, and what actions they took in response to salient declared risks. The declarations would be expected to support and inform, rather than to duplicate or replace, an entities’ risk identification and assessment processes as part of their due diligence.

This mechanism would:

- provide a **trusted source of information** to help guide risk identification, which would in turn **support effective, risk-based due diligence**
- improve the **quality, focus, and comparability** of high-risk matters in modern slavery statements
- ensure reporting entities cannot ignore **well-known and significant risks** relevant to their operations and supply chains.

Declarations relating to complex risks may also trigger additional government and/or Commissioner-led support, such as tailored guidance, cross-sector collaboration, multi-stakeholder initiatives, and improved access to supply chain information.

## How would the declaration mechanism work?

**Declarations may be made in relation to products, services and industries regardless of their origin.** As recommended by the McMillan Review, the declaration mechanism should apply to risks wherever they arise around the world and should not be restricted to specific jurisdictions. Declarations may also identify specific products, industries, or services within Australia that carry high risks.

Recognising that risks vary across jurisdictions, declarations might specify countries or regions associated with high-risk products, industries or services. In this case, the declaration would apply only to the specified product, service or industry in that jurisdiction. Entities would still be expected to assess the risk in other areas as part of their general risk assessment process.

To provide information that is most relevant for Australian business, the mechanism should also prioritise products, industries or services that are most significant in the Australian market. In making such an assessment, the Commissioner may have regard to information such as trade data published by the Department for Foreign Affairs and Trade.

**The Australian Anti-Slavery Commissioner will issue declarations following an assessment based on credible evidence and specified criteria.** In assessing whether to make a declaration of high risk, the Commissioner should draw on existing “high-risk lists” such as the US List of Goods Produced with Child and Forced Labor<sup>52</sup>, the new EU Forced Labour Regulation

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<sup>52</sup> Bureau of International Labor Affairs, *List of Goods Produced by Child Labor or Forced Labor*, (United States Department of Labor, 2019), <https://www.dol.gov/agencies/ilab/reports/child-labor/list-of-goods>.

database<sup>53</sup>, and the NSW Anti-Slavery Commissioner’s Inherent Risk Identification Tool<sup>54</sup> and may consider other sources, including the Global Estimates of Modern Slavery: Forced Labour and Forced Marriage.<sup>55</sup> In making declarations, the Commissioner may also draw from other relevant and reliable information from international organisations, research institutions or civil society organisations, and may consult with relevant government agencies, business groups, worker representatives and civil society.

**Reporting entities will be required to have regard to declarations in carrying out their due diligence and reporting obligations under the Act.** In particular, reporting entities should be required to consider the relevance of each declaration to their operations and supply chains, and how it has been incorporated into their due diligence process. This means that the requirement to have regard to the declarations will not be a stand-alone requirement, but rather, should be integrated into due diligence and reporting obligations. Where reporting entities fail to have regard to declarations of high-risk as part of their due diligence and reporting obligations, this may constitute a failure to meet these obligations and the Act’s enforcement framework will apply.

**Declarations should initiate further Government guidance and support.** High-risk declarations in relation to certain products, services or industries may be supplemented by guidance for businesses to address the relevant risk. Where declared risks involve issues that are particularly complex for individual businesses to address, a declaration may also trigger tailored sector-based guidance to address shared risks and support for sector-based or multi-stakeholder collaborations

Table 2 outlines proposed key elements for a high-risk declaration mechanism.

Table 2: High risk declaration mechanism	
Element	Explanation
Application	<ul style="list-style-type: none"> <li>The declaration mechanism will identify <b>products, industries or services</b> (but not individual suppliers) that are high-risk for modern slavery.</li> <li>The declaration mechanism will apply to risks of modern slavery <b>regardless of their country of origin</b>, including risks of modern slavery in Australian operations and supply chains.</li> </ul>

<sup>53</sup> European Commission, “The Forced Labour Regulation,” [https://single-market-economy.ec.europa.eu/single-market/goods/forced-labour-regulation\\_en](https://single-market-economy.ec.europa.eu/single-market/goods/forced-labour-regulation_en).

<sup>54</sup> Office of the NSW Anti-slavery Commissioner, “Due Diligence and Reporting”, <https://dcj.nsw.gov.au/legal-and-justice/our-commissioners/anti-slavery-commissioner/due-diligence-and-reporting.html#%3Cb%3EGRS4>.

<sup>55</sup> International Labour Organisation (ILO), Walk Free and International Organization for Migration (IOM), *Global Estimates of Modern Slavery: Forced Labour and Forced Marriage* (2022), [https://www.ilo.org/sites/default/files/wcmsp5/groups/public/@ed\\_norm/@ipecc/documents/publication/wcms\\_854733.pdf](https://www.ilo.org/sites/default/files/wcmsp5/groups/public/@ed_norm/@ipecc/documents/publication/wcms_854733.pdf).

**Table 2: High risk declaration mechanism**

Element	Explanation
	<ul style="list-style-type: none"> <li>The Commissioner will prioritise highlighting risks that are most severe and relevant to businesses operating in Australia.</li> </ul>
<b>Assessment</b>	<ul style="list-style-type: none"> <li>An assessment of whether a matter is high-risk by the Commissioner may be initiated <b>by complaint or own motion</b>.</li> <li>Commissioner considers relevant information and consults with stakeholders as required.</li> <li>Commissioner will determine if a product, service or industry is high-risk for modern slavery. Criteria for determining what is “high-risk” may include the severity of harm associated with the risk (i.e. scale, scope, irremediability) and the prevalence of forced labour indicators.</li> </ul>
<b>Declaration</b>	<ul style="list-style-type: none"> <li>The declaration should be published on a <b>public register</b>.</li> <li>The declaration should provide a brief summary of the basis on which the assessment is made.</li> <li>Declarations may in some cases include recommendations for reporting entities on “reasonable steps” to address the declared risk, and where appropriate, recommendations for further targeted guidance and support for reporting entities.</li> <li>Declarations should be <b>reviewed at least every two years</b> and will expire after three years unless renewed.</li> </ul>
<b>Obligation to have regard to declarations in due diligence</b>	<ul style="list-style-type: none"> <li>Reporting entities should be <b>required to have regard</b> to each declaration as part of carrying out their due diligence. This should include considering declarations when identifying, assessing and prioritising their risks.</li> </ul> <p><b>Note:</b> The declarations should be a guide and a starting point, not an exhaustive list of modern slavery risks. Guidance should make clear that:</p> <ol style="list-style-type: none"> <li>entities are still expected to conduct a comprehensive modern slavery risk assessment, including risks beyond those identified in high-risk declarations</li> <li>in having regard to declared risks, entities may make their own assessment about which risks are salient (i.e. most severe and likely) and should be prioritised for action.</li> </ol>
<b>Reporting obligation</b>	<ul style="list-style-type: none"> <li>Reporting entities should be <b>required to report</b> on how they have had regard to the declarations as part of their due diligence process in their modern slavery statements, including describing:             <ul style="list-style-type: none"> <li>which declared risks are and are not salient to the entity (i.e. based on their severity and likelihood)</li> </ul> </li> </ul>

Table 2: High risk declaration mechanism	
Element	Explanation
	<ul style="list-style-type: none"> <li>○ how the declared risks were taken into account in the due diligence risk assessment and prioritisation process</li> <li>○ any steps taken to address salient declared risks.</li> </ul>
<b>Enforcement</b>	<ul style="list-style-type: none"> <li>● Failure to report or failure to have regard to the high-risk declaration as part of the due diligence process (see above) would be subject to the Act's penalty framework.</li> </ul>

## A declaration mechanism that is fit for purpose

The proposed model addresses the issues raised in the McMillan Review regarding the limited investment by some reporting entities to understand, identify and address their highest risks. By providing information on a range of risks relevant to the Australian market, the declaration helps to guide risk assessment and prioritisation, increasing the effectiveness and efficiency of the due diligence process. Requiring reporting entities to have regard to relevant declarations in their due diligence will help ensure that entities cannot overlook or ignore known and significant risks. This in turn creates a fairer and more transparent landscape for compliance with the Act and business action on modern slavery, especially in circumstances where businesses have similar exposure to declared risks but current mitigation efforts are disparate.

The model provides flexibility for entities in how they respond to declarations, while also providing authoritative information with which entities can engage suppliers and other business partners on identified risks. At the same time, as declarations are not linked to individual suppliers, nor to import controls in relation to suppliers, the model does not impose significant administrative burden on either reporting entities or the regulator beyond the proposed due diligence and existing reporting requirements. In fact, the high-risk declaration mechanism should support and facilitate these processes.

The declarations mechanism strengthens transparency, promotes consistent risk identification and reporting, and prevents entities overlooking well-known high-risk areas. This mechanism is a necessary and logical next step in Australia's progression from a transparency-based reporting regime to one that drives more meaningful, risk-based action.

# Conclusion

Modern slavery is a grave human rights abuse that demands more than visibility, it requires responsibility and action. Australia's current reporting-based framework has helped raise awareness of risks, but it has not delivered the consistent, preventative action needed to protect people from exploitation. The reforms outlined in this paper offer a pragmatic and proportionate pathway forward. By embedding risk-based due diligence and targeted high-risk declarations into the Act, Australia can strengthen its response to modern slavery and drive real change for people in exploitation.

The Commissioner's Office hopes that the positions outlined in this paper assist in informing the Government's current targeted consultations on potential reforms to the Act, being run by the Attorney-General's Department. The Commissioner's views and recommendations outlined in this paper may evolve after considering stakeholder feedback.

The Commissioner encourages all stakeholders to engage in this important reform conversation. The Commissioner's Office will be seeking targeted feedback in response to this paper. Stakeholders are welcome to provide feedback to the Commissioner's Office at [contact@antislaverycommissioner.gov.au](mailto:contact@antislaverycommissioner.gov.au).

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