

LAW & POLICY GROUP

GRIST

AUSTRALIAN GUIDANCE EXPLAINS MODERN SLAVERY DISCLOSURES

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Recent government [guidance](#) aims to help organisations fulfil their annual reporting duty under Australia's [Modern Slavery Act 2018](#), which takes effect 1 Jan 2019. The act covers an estimated 3,000 domestic and foreign entities with annual consolidated revenue exceeding A\$100 million that conduct business in Australia. These entities must provide an annual statement disclosing how their operations and supply chain risks contribute to modern slavery, explaining actions taken to address the risks, and assessing the effectiveness of those actions. The first statements are due by 31 Dec 2020 for the financial year 1 Jul 2019 to 30 Jun 2020.

HIGHLIGHTS OF THE GUIDANCE

The act — which passed parliament in November 2018 — aims to combat the worst forms of exploitation, including trafficking in persons, slavery, servitude, forced marriage, forced labour, debt bondage, deceptive recruiting for labour or services, and the worst forms of child labour. Its effectiveness will be reviewed in 2022. The new guidance provides further details on entities and operations subject to the act, contents of the annual disclosure, and submission and publication of the statements.

Covered Entities

The act applies to a wide range of commercial and not-for-profit entities, including individuals, partnerships, associations, companies, trusts, superannuation funds and other types of investment organisations. The guidance helps entities determine if they are subject to the act, and includes information to assist them with determining their annual consolidated revenues.

In certain cases, organisations can submit joint annual statements on behalf of one or more reporting entities. Reporting entities that report on their modern slavery risks under another country's jurisdiction (for example, the UK's [Modern Slavery Act 2015](#)) can submit the same report in Australia, but it must fulfil the act's minimum requirements.

Statement Content and Reporting Criteria

The annual statement must:

- Explain the organisation's structure, global and domestic operations and supply chains, and identify modern slavery risks
- Outline the steps taken to address those risks, including due diligence and remediation
- Describe how the entity assessed the effectiveness of those actions

Operations covered. The act includes financial lending, financial investments, direct employment of workers, processing and production, product or service provision and delivery, managed and operated joint ventures, and an organisation's charitable activities.

Definition of supply chain. The definition of suppliers extends beyond an entity's direct or first-tier suppliers to include products, services and labour that contribute to the entity's own products and services, regardless of geographic location.

Capturing investments. The guidance provides more details and examples of how to consider financial investments. An entity's operations include internally managed portfolios and assets of superannuation funds and fund managers. Portfolios managed externally — such as by another fund manager — may be more appropriately considered as part of the entity's supply chains.

Submission and Publication of Statements

Every entity must have its annual modern slavery statements approved by the board and signed by a director. Final statements must be submitted to the Australian Border Force — an enforcement agency within the Department of Home Affairs — within six months of the end of the applicable reporting period. Entities can revise their statements in certain circumstances.

A government register will publish all modern slavery statements online. The guidance says that the act aims to “drive continuous improvement from reporting entities over time.”

Remedial Action, Further Guidance

Organisations breaching the law will be asked to explain their noncompliance and ordered to take remedial action. Absent remedial action, the government will publish the names of noncomplying entities. The act provides no specific fines or sanctions for noncompliance other than public disclosure.

A government Modern Slavery Business Engagement Unit will be established in the Australian Border Force to advise entities on their duties.

RELATED RESOURCES

Non-Mercer Resources

- [Guidance for Reporting Entities](#) (Australian Department of Home Affairs, 24 Sep 2019)
- [Modern Slavery Act 2018](#) (Australian Federal Register of Legislation, 10 Dec 2018)
- [Modern Slavery Act 2015](#) (UK Legislation, 26 Mar 2015)

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- [UK Consults on Preventing Supply Chain Modern Slavery](#) (30 Jul 2019)

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