

# MODERN SLAVERY ACT 2015

## SUMMARY PAPER



## BACKGROUND

Modern slavery is a brutal form of organised crime in which people are treated as commodities and exploited for criminal gain.

### THE MODERN SLAVERY ACT

- Consolidates and clarify the existing offences of slavery and human trafficking whilst increasing the maximum penalty for such offences,
- Provides two new civil preventative orders,
- Introduces new enforcement powers in relation to ships,
- Establishes an office of Independent Anti-Slavery Commissioner,
- Introduces measures focused on supporting and protecting victims,
- Requires certain businesses to disclose activities they are undertaking to eliminate slavery and trafficking from their supply chains and their own businesses,
- Requires the Secretary of State to publish a paper on role of Gangmasters Licensing Authority.

### OFFENCES UNDER THE ACT

**SLAVERY** - It is an offence to hold a person in slavery or servitude or to require a person to perform forced or compulsory labour.

**HUMAN TRAFFICKING** - It is an offence to arrange or facilitate the travel of another person with a view to them being exploited.

Consent by the victim in either offence does not preclude the offence having taken place.

There are exclusions under the Act which include; work in normal course of detention, military service, services exacted in an emergency or calamity threatening the life or well being of the community and normal civil duties.

**PENALTIES** - The maximum sentence has increased to life imprisonment for conviction on indictment. (max was previously 14 years) and is included under the Proceeds of Crime Act 2002.

### **BUSINESS CONSIDERATIONS**

These are criminal offences, it is essential that businesses understand the offences and do not commit a breach. It is critical to understand the many implications this Act has on your business.

These offences are applicable to all people and all businesses regardless if your company is required to produce a Slavery & Human Trafficking Statement

It is suggested businesses should review supply chain processes and contracts to ensure they are eliminating the opportunity for these offences to be committed in their own business or their supply chain.

### **PREVENTION ORDERS**

Civil Orders have now been established which enable prohibitions to be imposed on individuals convicted or involved in slavery or human trafficking (STRO).

### **BUSINESS CONSIDERATIONS**

Businesses should consider developing a process for checking if potential employees or contractors are subject to a prevention order or if they are issued one during their employment and the implications these will have to your business.

### **MARITIME ENFORCEMENT**

The Act provides additional powers for UK law enforcement to tackle suspected slavery and human trafficking at sea. Powers are only exercisable with permission of the secretary of state and for the purpose of preventing, detecting, investigating or prosecuting a human trafficking or slavery offence. The Act also sets out provisions where UK law enforcement can pursue ships in foreign waters.

## INDEPENDENT ANTI-SLAVERY COMMISSIONER

The Act establishes the Independent Anti-Slavery Commissioner. This role of the Commissioner is to encourage good practice in the prevention, detection, investigation and prosecution of slavery and human trafficking offences and the identification of victims. They must prepare a strategic plan for work and priorities. The Commissioner has a UK wide remit.

### BUSINESS CONSIDERATIONS

The Commissioner should be a good source for understanding good practice. Any requests or communications from the Commissioner should be taken seriously and dealt with appropriately

## PROTECTION OF VICTIMS

The Act provides a defence for slavery or trafficking victims, which is intended to encourage victims to come forward and give evidence without fear of being convicted to offences they may have committed in connected with their slavery or trafficking. A person is not guilty of that offence if they commit the offence because they were compelled to do so as a result of slavery or relevant exploitation, and a reasonable person with relevant characteristics in the same position as the person would have no realistic alternative to commit the offence.

### BUSINESS CONSIDERATIONS

If your business or supply chain uses ships as part of its supply chain then the considerations set out this section of the Act must be fully understood and taken into consideration through operating processes and contracts, ie who takes the risk of goods being held up as part of an investigation.

### BUSINESS CONSIDERATIONS

Businesses should set up appropriate processes for employees to report suspected offences under the Act, including how they will provide support to the employee(s).

Contracts of employment and HR policies should be reviewed to ensure compliance and best practice for employees.

The Act also sets up support processes for victims.

## TRANSPARENCY IN SUPPLY CHAINS

Commercial Organisations with a global group turnover of £36m per annum are required to prepare a slavery and human trafficking statement per financial year. The purpose of the statement is to set out what an organisation has done to prevent modern slavery in their own business and supply chain. It is not a statement confirming there is no modern slavery anywhere in the business or supply chain.

Subsidiaries with a £36m turnover will also have to produce their own statement, but can be a replica of group if applicable.

The requirement to produce a statement is effective from October 2015, but first statements expected from companies with a year-end of Dec 2015 to allow companies time to understand the requirements. Subsequent yearly statement should demonstrate the progress that has been made through that year.

The statement must be published in prominent place on the company website (including each subsidiary home page website if applicable)

**A slavery and human trafficking statement** must include (but not limited to)

- details about the company's structure, business operations and supply chains (including sectors and countries),
- policies in relation to slavery and treatment of workers, human rights due diligence processes,
- Parts of the business and supply chains where there is a risk of slavery and human trafficking taking place including risk assessments and management procedures to manage those risks,
- KPI for effectiveness of companies commitments and training.
- information of the company's values, remediation and grievance procedures for workers that are victims or at risk of modern slavery
- capacity building of staff to manage and mitigate risks of modern slavery , forced labour or human trafficking

If the Company has taken no steps in that financial year the statement must say so.

The Act does not set out a format for such statement, however the government has produced guidance on contents (see summary paper attached). The statement must be approved by board of directors or equivalent and signed by a director or partner.

The Act does not however require a company to undertake any additional activities other than produce the statement, it is intended to encourage businesses to be transparent thus increase competition and drive up standards

**If a company fails to produce a statement** the Act allows the Secretary of State to issue an injunction to require a company to produce a statement, if a company fails to comply with that injunction it can result in contempt of court with an unlimited fine.

There are other business consequences for the failure to publish a statement, including an adverse effect on reputation and credibility and damage to future business with investors, consumers and other organisations.

### BUSINESS CONSIDERATIONS

Businesses that are required to produce a statement should understand their obligations, additional guidance is can be found [insert details of where will be post the output from our SIG]

## GANGMASTERS LICENSING AUTHORITY

Gangmasters Licensing Authority protects workers from exploitation, its licensing scheme regulates businesses that provide workers to agriculture, horticulture, forestry, shellfish gathering and food and drink processing and packaging

### **BUSINESS CONSIDERATIONS**

Businesses that provide workers in the areas covered by the GLA, must understand these additional implications and the impact they have on your business.