

The Modern Slavery Act in Australia – Explainer

In the last few months there's been a flurry of activity focused on introducing a Modern Slavery Act in Australia to address the problem of slavery in corporate supply chains. In this explainer, we'll help you understand what's led us here, where things are up to, what the positions are of the different parties and how they compare with what we would like to see.

Slavery in Supply Chains – How Big a Problem is it?

There are more than 21 million people in slavery throughout the world: most live in the Asia Pacific region, and more than 2/3rds of this 21 million people are being exploited in the private economy. These slaves are making goods and providing services that all too often wind up in corporate supply chains. This means that the most common way Australian people encounter slavery is through the companies we buy from. We know that slavery exists in the supply chains of Australian companies because we hear about it from the companies themselves. The problem touches fashion, electronics, chocolate, tea and many other products.

One of the most profound things an industrialised nation can do to end this horrible practice is to ensure that multinational businesses are taking sufficient action to keep slavery and exploitation out of their operations.

What are other countries doing to address the problem?

In 2010, California signed into law the *Transparency in Supply Chains Act*, requiring companies to report on their efforts to address slavery. The legislation came into effect in 2012 and requires companies in the manufacturing and retail sector with revenue over \$100m US to publish what efforts they have made to combat forced labour in their supply chains.

In 2015, the UK parliament introduced *The UK Modern Slavery Act*. The legislation includes a requirement that businesses with global revenue over £36 million must disclose annually what steps they are taking, if any, to ensure that slavery, forced labour and human trafficking are not taking place in their supply chains. The statement must be approved by a board and signed off by a director.

Elsewhere, the European Union introduced transparency requirements for large companies with its non-financial reporting directive in 2014; the French parliament introduced legislation in 2017 requiring very large companies to take appropriate measures to protect against labour rights abuse, which included fines of up to \$10 million Euros for non-compliance; and the Netherlands parliament introduced a law calling on companies supplying to Dutch consumers to take appropriate measures to protect against child labour.

What has been happening in Australia?

Australia now lags the efforts of many developed countries in regulating labour rights in corporate supply chains.

In 2011, having witnessed the introduction of the *Transparency in Supply Chains Act* in California, Baptist World Aid began working with Stop the Traffik to campaign for supply chain legislation in Australia.

The introduction of the *UK Modern Slavery Act* in 2015 was met with significant domestic interest, and spurred many organisations, including Baptist World Aid, to strengthen their calls to government for Australian legislation.

The Parliament responded to this interest in February of this year by launching the Joint Standing Committee on Foreign Affairs and Trades Inquiry into Establishing a Modern Slavery Act in Australia.

The inquiry into modern slavery legislation for Australia has taken over 200 submissions, and has heard evidence from dozens of experts and key stakeholders on what shape the legislation should take.

A timeline of policy announcements and recommendations.

In the past few months there has been a flurry of announcements on this issue.

By June of this year, prior to the inquiry reporting back, the Labor party announced a policy framework for an Australian Modern Slavery Act.

On the 16th of August, the Coalition government released proposed legislation for public consultation.

On the 17th of August, a day later, the inquiry released its interim report.

How or why have both parties put forward a policy platform ahead of the findings from the ongoing parliamentary inquiry?

The first point to make is that it is exciting that both major parties are now committed to introducing legislation.

The Inquiry is still playing a significant role. Submissions for the Inquiry and the stakeholder evidence has helped shape the policy platforms of the respective parties. Chris Crewthers MP, the chair of the Inquiry, has also indicated that the final content of the Government's proposed legislation will continue to be influenced by the Inquiry's findings.

It is also worth noting that the scope of the Inquiry goes beyond just supply chain requirements, and includes scope for recommendations on domestic slavery legislation and areas like orphanage tourism. Neither party has put forward a position on these issues and will presumably rely on the inquiry to shape their proposals.

However, it seems likely that there will be some doubling up between the public consultation of the Coalition and the work of the Inquiry- a relatively minor inconvenience if it doesn't impede the development of robust legislation.

What have we been calling for, and how do the Labour and Coalition policies, and the inquiry recommendations compare?

With legislation now highly probable, the critical question becomes how robust will it be? Below we compare what each party is proposing against what Baptist World Aid has been calling for.

Legend
Ask reflected in our policy proposal
Clarification or more information needed
Ask rejected in policy proposal

1. Mandatory Due Diligence Reporting.

Due-diligence refers to a company taking a reasonable level of care, research and analysis to avoid harm, in this case, modern slavery. We have called for a due-diligence reporting requirement that would require companies to outline what steps they have taken to avoid modern slavery throughout their supply chain.

Labour	Coalition Government	Inquiry Interim Report
<p>Included in Labour platform.</p> <p><i>"...each statement must include specific info about supply chain, where risk has been identified, what steps have been taken to ensure there is no slavery, training to staff, whether slavery has been found and what action has been taken"</i></p>	<p>Included but qualified. Policy needs clarity.</p> <p><i>"entities will also have the flexibility to determine what, IF ANY, information they provide against each of the four criteria"</i></p>	<p>The recommended content for a mandatory reporting requirement is being held over until the final report.</p> <p><i>" The Committee is of the view that its final report further consider due diligence requirements,"</i></p>

2. Which Companies Should Report?

In the UK, all corporate groups operating in the country with total revenue above £36 million, about \$58 million Australian, are required to report. Baptist World Aid argues that this should be the upper threshold for the Australian legislation. Companies of this size have the resources and influence to develop adequate systems to mitigate risks in their supply chains and report on their efforts. A threshold of around \$58 million also provides consistency with the UK legislation.

Labour	Coalition Government	Inquiry Interim Report
<p>Yet to be defined by the Labour proposal.</p> <p>Currently calling for "Major Australian Companies"</p>	<p>Threshold set at \$100m. Higher than recommended.</p> <p><i>"...no lower than \$100m total annual revenue"</i></p>	<p>To be determined in its final report.</p> <p><i>"The exact threshold will be considered further in the Committee's final report"</i></p>

3. Where Should Modern Slavery Statements Be Published?

BWAA argue that statements should be made available on the websites of individual companies and hosted in a central repository, that is either created or funded by the Government. For ease of comparison between different company efforts, we have also called for industry specific standardised reporting templates.

Labour	Coalition Government	Inquiry Interim Report
Included in Labour proposal.	Included in Government proposal	Included as a recommendation of the interim report, with an additional compliance measure: <i>“publish a list of companies, businesses, organisations and governments above the threshold that do not comply”</i>

4. Who Should Approve Modern Slavery Statements

Requiring approval by the board of directors, or equivalent, for all Modern Slavery Statements has helped drive shifts in corporate culture and practice in the UK. It is BWAA’s recommendation that approval in Australia should likewise rest with the Board, with the statement being signed by at least one company director.

Labour	Coalition Government	Inquiry Interim Report
Approval process not defined in Labour’s proposal	Included in Government proposal	Included as a recommendation of the interim report.

5. Penalties for Non-Compliance

One of the most significant identified weaknesses for comparative legislation in the UK and in California has been the lack of penalties for non-compliance. BWAA believes such penalties are important to ensure that companies act with integrity.

Labour	Coalition Government	Inquiry Interim Report
Included in Labour proposal.	Penalties are not to be included under the Government proposal. <i>“Will not include punitive penalties for non-compliance....”</i>	Included as a recommendation of the interim report.

Three other measures recommended by Baptist World Aid have not been considered across the range of proposals. These are:

1. A mechanism to escalate from mandatory reporting to mandatory due diligence for laggard companies or industries.
2. Funding comparisons of different industries
3. Government funded research to understand the risk of forced labour and child labour being used in the production of different goods in different regions.

Where To From Here?

The momentum for a Modern Slavery Act is promising. We are concerned about the Government's reluctance to include penalties in its proposed legislation, and the higher proposed reporting threshold it is recommending. We are also waiting to see what penalties the Labour party proposes as it finalises its policy proposal.

For now, we will continue to work with you to express our thanks to both sides of politics for their commitments to tackling slavery in supply chains, while still campaigning to ensure that the final legislation is as robust as possible.