

New UK Draft Legislation To Amend UK Modern Slavery Compliance Rules

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What's this all about?

Under the UK Modern Slavery Act 2015 (the 2015 Act), compliance disclosure & transparency requirements mean that an organization with an annual turnover of £36 million (approximately \$50 million at today's rate) or more that sells goods or services in the UK is required to annually publish a slavery statement demonstrating what they are doing to ensure that there is no slavery or human trafficking in the business or the supply chain. This also applies to organizations based *outside* the UK selling goods and services *into* the UK.

As the UK's official accompanying guidance on the disclosure/transparency requirements states, organisations must "paint a detailed picture" of all the steps that they have taken. This compliance obligation has now been in force since 29 October 2015 and many organizations who fall under it have already previously published their statements in the last few years.

There have been a number of attempts to update the 2015 Act and in 2020 the UK government set out its thoughts about possible changes (which we've written about here <https://www.corderycompliance.com/uk-govt-modern-slavery-consultation-conclusions/>). Recently new draft legislation has been proposed in the UK Parliament to make changes to the 2015 Act including some of the compliance aspects. This article looks at those proposed changes.

The proposed UK amending legislation

A rather short but potentially rather radical piece of draft legislation entitled "The Modern Slavery (Amendments) Bill" was recently introduced in the UK Parliament (in the House of Lords). It sets out to:

1. Prohibit the falsification of slavery and human trafficking statements;
2. Establish minimum standards of transparency in supply chains in relation to modern slavery and human trafficking; and,
3. Prohibit companies using supply chains which fail to demonstrate minimum standards of transparency.

More particularly, the draft legislation seeks to beef up compliance enforcement by empowering the UK's "Independent Anti-Slavery Commissioner" to:

"[issue] a formal warning to a commercial organisation which fails to meet the requirements of disclosure and transparency".

Here, under further proposed amendments, "the requirements of disclosure and transparency" mean that:

"the commercial organisation must – (a) publish and verify information about the country of origin of sourcing inputs in its supply chain, (b) arrange for credible external inspections, external audits, and unannounced external spot-checks, and (c) report on the use of employment agents acting on behalf of an overseas government."

Further, under the other proposed amendments, as regards:

- False information in relation to slavery and human trafficking statements:

- A person who is responsible for a slavery and human trafficking statement commits a criminal offence if information in the statement is false or incomplete in a material particular, and the person either knows it is or is reckless as to whether it is;

- Here a person is responsible for a slavery and human trafficking statement of a commercial organisation if the person is:

(a) a director (or equivalent) of the organisation if it is a body corporate other than a limited liability partnership;

(b) a member of the organisation if it is a limited liability partnership;

(c) a partner of the organisation if it is any other kind of partnership;

- A person is not guilty of the above-mentioned criminal offence if the person:

(a) takes all reasonable steps to ensure that the slavery and human trafficking statement is corrected, and

(b) informs the "Independent Anti-Slavery Commissioner" as soon as practicable after becoming aware that it contains information that is false or incomplete in a material particular;

- The penalties for the above-mentioned criminal offence are:

(a) at the higher criminal court level: a prison sentence of up to 2 years; and/or, a fine amounting to 4% of global turnover of their commercial organisation, to a maximum of £20 million;

(b) at the lower criminal court level in England and Wales, to a prison sentence up to one year and/or to a fine, or both;

- Minimum standards of disclosure and transparency:

- A commercial organisation commits a criminal offence if it continues to source from suppliers or sub-suppliers which fail to demonstrate minimum standards of transparency after having been issued a formal warning by the "Independent Anti-slavery Commissioner";

- The penalties for the above-mentioned criminal offence are:

(a) at the higher UK criminal court level: a fine amounting to 4% of global turnover of their commercial organisation, to a maximum of £20 million;

(b) at the lower criminal court level in England and Wales, to a fine.

If these proposed amendments are passed, the extended disclosure and transparency obligation would require further compliance work for organisations, and the introduction of criminal liability would require organisations to be particularly vigilant in their compliance work.

Modern slavery register

It is also worth bearing in mind that this Spring the UK government launched an official online modern slavery statement register for those organizations who fall within the scope of the disclosure & transparency requirements (which we have written about here <https://www.corderycompliance.com/uk-modern-slavery-online-statement-registry/>). The registry can be used by an organization to file their annual slavery statement. The development of the register was backed up by a notice campaign to businesses with official letters being sent to more than 15,000 organisations in March. We wrote about that campaign here <https://www.corderycompliance.com/uk-modern-slavery-compliance-registry-letters/>.

Take-up by organizations of the register has been very high. At the time of writing more than 16,000 statements appear on the register. For now, filing a statement with the registry is voluntary, but the UK government plans to make this mandatory. The UK modern slavery statement register can be found here: <https://modern-slavery-statement-registry.service.gov.uk/>

What is the key takeaway?

The key takeaway is to follow progress on this UK legislative development, especially because the proposed changes would have a compliance impact. It should be pointed out that previous attempts to change the 2015 Act have not succeeded. However as we've reported on in earlier alerts there would see to be consensus across Parliament for change, promoted in part by concerns over supply chains touching China. In June 2021 the UK Government published its response to the report from the Parliamentary committee enquiry into supply chains (see our alert here) <https://www.corderycompliance.com/xinjiang-supply-chains-alert/> and that response has not gone down well with the committee. It may well be that as a result this Bill has more chances of success.

If the Bill does pass the fines, and concentration on personal criminal penalties, will be a significant change. Organisations should make sure that they meet their existing legal requirements as those who do not comply with the current regime may well find themselves in line for a greater chance of enforcement action should the changes come in.

For more information

The draft UK legislation can be found here <https://bills.parliament.uk/publications/41860/documents/390..>

Modern slavery compliance continues to be a hot topic, for example see our article here <https://www.corderycompliance.com/new-supply-chain-laws-china/>, and litigation is starting to develop.

Check out our film about spotting the signs of modern slavery here <https://www.corderycompliance.com/spotting-the-signs-of-modern-slavery/>.

For more information on Cordery's work on modern slavery and a short film explaining the law click here <https://www.corderycompliance.com/modernslavery/>. Cordery's Modern Slavery Action helps organisations meet their modern slavery reporting requirements for a fixed fee. There are more details here <https://www.corderycompliance.com/solutions/modern-slavery-action/>.

We report about modern slavery issues here [Modern Slavery and Supply Chain Management \(corderycompliance.com\)](https://www.corderycompliance.com/modern-slavery-and-supply-chain-management/).

We report about compliance issues here <https://www.corderycompliance.com/news/>.

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