

MODERN SLAVERY AMENDMENT BILL 2021

No. 1 **OPP No. 1 [c2021-115C]**

Page 3, Schedule 1[2], lines 5 and 6. Omit all words on those lines.

No. 2 **GOVT No. 1 [c2021-145B]**

Page 3, Schedule 1. Insert after line 9—

[3A] Section 3(k)

Insert after section 3(j)—

- (k) to provide for education, training and guidance about identifying and addressing modern slavery taking place within supply chains of organisations.

No. 3 **GOVT No. 2 [c2021-145B]**

Page 3, Schedule 1[5], lines 12 and 13. Omit all words on those lines. Insert instead—

[5] Section 5(1), definition of "modern slavery", paragraph (b)

Omit "government agencies or non-government agencies".

Insert instead "organisations".

No. 4 **GOVT No. 3 [c2021-145B]**

Page 3, Schedule 1. Insert after line 22—

[8A] Section 5(1)

Insert in alphabetical order—

organisation includes a government agency and a commercial organisation.

No. 5 **GRN No. 1 [c2021-143C]**

Page 3, Schedule 1. Insert after line 28—

[9A] Sections 6–6F

Omit section 6. Insert instead—

6 Appointment of Anti-slavery Commissioner

- (1) The Governor may appoint an Anti-slavery Commissioner.
- (2) The Commissioner holds office for the term, not exceeding 5 years, specified in the instrument of appointment, but is eligible for re-appointment.
- (3) A person is not eligible to be appointed for more than 2 terms of office as Commissioner, whether or not consecutive terms.

- (4) The office of Commissioner is a full-time office and the holder of the office is required to hold it on that basis, except to the extent permitted by the Minister.

6A Employment and remuneration

- (1) The employment of the Commissioner is, subject to this Act, to be governed by a contract of employment between the Commissioner and the Minister.
- (2) The following provisions of, or made under, the *Government Sector Employment Act 2013* relating to the employment of Public Service senior executives apply to the Commissioner, but in the application of those provisions a reference to the employer of a Public Service senior executive is to be read as a reference to the Minister—
 - (a) provisions relating to the band in which an executive is to be employed,
 - (b) provisions relating to the contract of employment of an executive,
 - (c) provisions relating to the remuneration, employment benefits and allowances of an executive.
- (3) The office of Commissioner is a statutory office and the provisions of the *Government Sector Employment Act 2013* relating to the employment of Public Service employees do not apply to that office, except as provided by this section.

6B Vacancy in office

- (1) The office of Commissioner becomes vacant if the Commissioner—
 - (a) dies, or
 - (b) completes a term of office and is not re-appointed, or
 - (c) resigns the office by instrument in writing addressed to the Minister, or
 - (d) is removed from office by the Governor under section 6C, or
 - (e) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with the Commissioner's creditors or makes an assignment of the Commissioner's remuneration for their benefit, or
 - (f) becomes a mentally incapacitated person, or
 - (g) is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable, or
 - (h) is imprisoned in respect of a conviction for an offence punishable in New South Wales by imprisonment or for an offence committed elsewhere than in New South Wales that, if committed in New South Wales, would be an offence so punishable.
- (2) If the office of Commissioner becomes vacant, a person is, subject to this Act, to be appointed to fill the vacancy.

6C Removal from office

- (1) The Governor may remove the Commissioner from office, but only for incompetence, incapacity or misbehaviour.
- (2) The Commissioner cannot be removed from office under the *Government Sector Employment Act 2013*, Part 6.

6D Acting Commissioner

- (1) The Minister may appoint a person to act as the Commissioner during the illness or absence of the Commissioner or during a vacancy in the office of Commissioner.
- (2) A person, while acting as Commissioner, has and may exercise the functions of the Commissioner and is taken to be the Commissioner.
- (3) The Minister may, at any time, remove a person from office as acting Commissioner.
- (4) An acting Commissioner is entitled to be paid the remuneration, including travelling and subsistence allowances, that the Minister may from time to time determine.
- (5) A person must not be appointed to act as the Commissioner for a period that exceeds 6 months or that in total exceeds 6 months in any 12-month period.

No. 6 **GRN No. 2 [c2021-143C]**

Page 3, Schedule 1. Insert before line 29—

[9B] Section 7

Omit the section. Insert instead—

7 Independence of Commissioner

The Commissioner is not subject to the control and direction of the Minister in respect of the exercise of the Commissioner's functions under this Act.

No. 7 **GOVT No. 4 [c2021-145B]**

Page 3, Schedule 1[10], lines 29 and 30. Omit all words on lines. Insert instead—

[10] Section 9 General functions of Commissioner

Omit "government and non-government agencies and other bodies and persons" from section 9(1)(d).

Insert instead "persons and organisations".

No. 8 **GRN No. 1 [c2021-171C]**

Page 3, Schedule 1. Insert after line 32—

[11A] Section 9(1)(g1)

Insert after section 9(1)(g)—

- (g1) to investigate and report on issues relating to the employment and use of seasonal workers in the State, including whether there are reasonable grounds to suspect any practices involving the use of seasonal workers constitute modern slavery,

No. 9 **OPP No. 8 [c2021-115C]**

Page 3, Schedule 1[11], lines 31 and 32. Omit all words on those lines.

No. 10 **GOVT No. 5 [c2021-145B]**

Page 4, Schedule 1[20], lines 24 and 25. Omit all words on those lines. Insert instead—

[20] Section 15, heading

Omit the heading. Insert instead—

15 Co-operation with other persons and organisations

[20A] Section 15(1)

Omit "government and non-government agencies, and such other persons, bodies and organisations as".

Insert instead "the persons and organisations that".

[20B] Section 15(2)

Omit "government and non-government agencies and such other persons, bodies and organisations as".

Insert instead "the persons and organisations that".

No. 11 **OPP No. 13 [c2021-115C]**

Page 5, Schedule 1[24] and [25], lines 27–31. Omit all words on those lines.

No. 12 **OPP No. 1 [c2021-188A]**

Page 5, Schedule 1. Insert after line 34—

[26A] Sections 25A and 25B

Insert after section 25—

25A State owned corporations must make voluntary modern slavery statements if not already required

- (1) This section applies to a State owned corporation that is not a reporting entity within the meaning of the *Modern Slavery Act 2018* of the Commonwealth.

Note— See the *Modern Slavery Act 2018* of the Commonwealth, section 5 for the meaning of “reporting entity” under that Act.

- (2) A State owned corporation to which this section applies must volunteer to comply with the requirements of the *Modern Slavery Act 2018* of the Commonwealth, as referred to in that Act, section 6, if it is eligible to do so.

Note— A corporation that volunteers under the *Modern Slavery Act 2018* of the Commonwealth, section 6 is a reporting entity for the purposes of that Act.

- (3) A State owned corporation that has volunteered under subsection (2) must not revoke a notice given under the *Modern Slavery Act 2018* of the Commonwealth, section 6.

25B State owned corporations must publish Commonwealth modern slavery statements

As soon as is practicable after giving the Minister, within the meaning of the *Modern Slavery Act 2018* of the Commonwealth, a modern slavery statement under that Act, a State owned corporation must—

- (a) publish a copy of the modern slavery statement on a publicly accessible website kept by the corporation, and
- (b) give the Commissioner written notice that the statement has been published.

No. 13 OPP No. 14 [c2021-115C]

Page 5, Schedule 1[27], lines 35 and 36. Omit all words on those lines.

No. 14 OPP No. 2 [c2021-188A]

Page 5, Schedule 1[28], section 26(1). Insert after line 39—

- (c1) identifies any State owned corporation that has failed to provide the Minister, within the meaning of the *Modern Slavery Act 2018* of the Commonwealth, with a modern slavery statement for a reporting period under that Act, and

No. 15 OPP No. 15 [c2021-115C]

Page 6, Schedule 1[29], proposed section 26(3)(a), line 6. Insert "and commercial organisations" after "government agencies".

No. 16 GOVT No. 6 [c2021-145B]

Page 6, Schedule 1[30] and [31], lines 9–12. Omit all words on those lines. Insert instead—

[30] Section 27 Codes of practice

Omit section 27(1). Insert instead—

- (1) The Commissioner may develop, and make publicly available, codes of practice for the purpose of providing guidance in identifying modern slavery taking place within the supply chains of organisations and steps that can be taken to remediate or monitor identified risks.

[30A] Section 28 Commissioner's public awareness and advice functions—supply chains

Omit "government and non-government agencies" wherever occurring in section 28(1) and (2).

Insert instead "organisations".

[31] Section 28(1)

Omit "encouraging agencies". Insert instead "encouraging organisations".

No. 17 **GRN No. 1 [c2021-194A]**

Page 6, Schedule 1. Insert after line 14—

[32A] Section 30A

Insert after section 30—

30A Duty to ensure goods and services procured by Parliament not product of modern slavery

- (1) The Department of Parliamentary Services must take reasonable steps to ensure goods and services procured by and for the Houses of Parliament are not the product of modern slavery.
- (2) The Executive Manager, Parliamentary Services in the Parliament's Department of Parliamentary Services must, within 5 months after the end of each financial year, prepare a report (an *annual report*) that contains the following—
 - (a) a statement of the action taken by the Department of Parliamentary Services in relation to any issue raised by the Anti-slavery Commissioner during the year concerning the operations of the Department and identified by the Commissioner as being a significant issue,
 - (b) a statement of steps taken to ensure goods and services procured by and for the Department during the year were not the product of modern slavery.
- (3) The annual report must be—
 - (a) given to the Presiding Officer of each House of Parliament, and
 - (b) tabled in each House of Parliament by the Presiding Officer within 14 sitting days of being given the annual report.
- (4) Subsection (1) does not have effect until 1 July 2022.
- (5) Subsection (2) does not apply to a financial year commencing before 1 July 2022.

No. 18 **GRN No. 1 [c2021-142A]**

Page 7, Schedule 1[34], proposed section 36(1), lines 10 to 12. Omit all words on those lines. Insert instead—

- (1) The Modern Slavery Committee—
 - (a) is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing the objectives, and
 - (b) while undertaking the review, may investigate any other related matter the Committee considers appropriate.

No. 19 **GRN No. 2 [c2021-142A]**

Page 7, Schedule 1[34], proposed section 36(3), lines 15 and 16. Omit all words on those lines. Insert instead—

- (3) A report on the outcome of the review and related investigations is to be tabled in each House of Parliament within 24 months from the commencement of this Act.

No. 20GRN No. 2 [c2021-171C]

Page 7, Schedule 1[34]. Insert after line 16—

37 Power to require provision of documents and information

- (1) The Commissioner may exercise a function under this section only if the Commissioner has reasonable grounds to suspect that practices involving the use of seasonal workers that constitute modern slavery have or are occurring.
- (2) The Commissioner may, by written notice given to a person, require the person—
 - (a) to provide information the Commissioner reasonably requires for the authorised purpose, or
 - (b) to produce to the Commissioner, at the place and time specified in the notice, any document the Commissioner reasonably requires for the authorised purpose, or
 - (c) to answer questions about any matters in respect of which information is reasonably required for the authorised purpose, or
 - (d) to attend at a specified place and time to answer questions under this section if attendance at that place is reasonably required in order that the questions can be properly put and answered.
- (3) The place and time at which a person may be required to produce a document, or to attend and answer questions, is to be a place and time nominated by the Commissioner that is reasonable in the circumstances.
- (4) A notice under this section that requires a person to produce a document may only require a person to produce existing documents that are in the person's possession or that are within the person's power to obtain lawfully.
- (5) The Commissioner may take copies of any documents provided under this section.
- (6) If the Commissioner has reason to believe that any documents provided under this section are evidence of an offence against this Act or the regulations, the Commissioner may retain the documents until proceedings for the offence have been heard and determined.
- (7) A person who, without reasonable excuse, fails to comply with a requirement made of the person under this section is guilty of an offence.
Maximum penalty—200 penalty units.
- (8) A person who provides any document or information, or answers any question, in purported compliance with a requirement made under this section, knowing that the document, information or answer is false or misleading in a material particular, is guilty of an offence.
Maximum penalty—400 penalty units or imprisonment for 2 years, or both.
- (9) In this section, the *authorised purpose* is the purpose of carrying out the Commissioner's functions under section 9(1)(g1).

No. 21 GRN No. 1 [c2021-148C]

Page 10, Schedule 1[49]. Insert after line 28—

5.4B Local Government Act 1993 No 30

[1] Section 428 Annual reports

Insert after section 428(4)(b)—

- (c) a statement of the action taken by the council in relation to any issue raised by the Anti-slavery Commissioner during the year concerning the operations of the council and identified by the Commissioner as being a significant issue,
- (d) a statement of steps taken to ensure that goods and services procured by and for the council during the year were not the product of modern slavery within the meaning of the *Modern Slavery Act 2018*.

[2] Section 438ZE

Insert after section 438ZD—

438ZE Duty to ensure goods and services procured not product of modern slavery

A council must take reasonable steps to ensure that goods and services procured by and for the council are not the product of modern slavery within the meaning of the *Modern Slavery Act 2018*.

[3] Schedule 8 Savings, transitional and other provisions consequent on the enactment of other Acts

Insert at the end of the Schedule, with appropriate Part and clause numbering—

Part Provisions consequent on enactment of Modern Slavery Amendment Bill 2021

Annual reporting about modern slavery—s 428(4)(c) and (d)

Section 428(4)(c) and (d) do not apply to a year commencing before 1 July 2022.

Duty to ensure goods and services procured not product of modern slavery—s 438ZE

Section 438ZE does not have effect until 1 July 2022.

No. 22 GRN No. 2 [c2021-148C]

Page 10, Schedule 1[50], definition of *government agency*, lines 31–36. Omit all words on those lines. Insert instead—

government agency has the same meaning it has in the *Modern Slavery Act 2018*, but does not include a public or local authority that is constituted by an Act of another jurisdiction that exercises public functions.