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**From:** Madeleine Bridgett  
**Sent:** Wednesday, 11 December 2019 9:13 AM  
**To:** Sharon Ohnesorge  
**Cc:** ALHR President  
**Subject:** Question on Notice

Dear Standing Committee on Social Issues,

This email is to respond to the question taken on notice by ALHR at the hearing on 4 December 2019. Mr Shoebridge asked Ms Bridgett if s24(8) of the Act could address the concerns raised in the NSW Government's submission regarding s 32 of the *Human Tissue Act 1983* (NSW).

ALHR has had an opportunity to review s 24(8) of the Act. Section 24(8) refers to "regulations" which may exempt organisations from any or all of the provisions in s 24 of the Act. ALHR notes that there is no mention of s 24(8) in the Draft Modern Slavery Regulation 2019 (**Draft Regulation**). Regulation 10 of the Draft Regulation provides for exemptions from the requirement to prepare modern slavery statements and largely deals with "commercial organisations". Section 24(1) of the Act defines "commercial organisation" and the definition excludes a government agency of the State. Section 24(8) notes that s 175 of the *Public Works and Procurement Act 1912* provides for the transparency of supply chains of government agencies of the State. ALHR notes that s 175 of the *Public Works and Procurement Act 1912* does not use the words "transparency in supply chains".

ALHR's position on s 24(8) of the Act, as raised in the hearing on 4 November 2019, is that it is not clear how s 24(8) will deal with the concerns raised by the NSW Government's submission regarding s 32 of the Human Tissue Act, if at all. Further, there is no regulation relating to s 24(8) of the Act in the Draft Regulations which applies to government agencies of the State such as NSW Health.

The concerns raised by the NSW Government submission regarding s 32 is as follows:

*Capturing any activity within the meaning of modern slavery that occurs in another country that would be a breach of section 32 of the Human Tissue Act had the activity occurred in NSW has the potential to reduce the supply of blood and other products into NSW. NSW Health can and does rely on imports of blood-related products, particularly plasma derived products, from parts of America, or other countries, that allow a donor to be paid for their donation in a manner that may breach section 32 had the activity occurred in NSW. Continuing to rely on such imports has the potential to put NSW Health at risk of breaching the obligation created by the NSW Act that it take reasonable steps to ensure it does not have modern slavery in its supply chain (new section 176(1A) of the Public Works Act).*

ALHR's position is that s 32 of the *Human Tissue Act 1983* (NSW) already provides exemptions for NSW Health regarding imports of blood, see: s 32(2). It is unclear how having s 32 in the Modern Slavery Act will reduce the supply of blood and other products into NSW, given that the Modern Slavery Act provides for reporting modern slavery risks, rather than providing for the importation of blood supplies. Respectfully, it would seem that the NSW Government's submission is conflating the two issues, that of importing blood and other products into NSW and that of the reporting requirement under the Modern Slavery Act.

ALHR is of the view that NSW Health should not be exempt from the reporting requirement relating to trading in tissue, especially given the serious concerns held by ALHR about trafficking in human organs in China. NSW Health should be diligent in their procurement processes regarding their supply chain relating to the importation of blood and other products.

For the reasons above, ALHR is of the view that s 32 of the *Human Tissue Act 1983* (NSW) should not be omitted from the Act given there are sufficient protections for NSW Health in s 32 regarding the importation of blood and other products into the NSW. Further, if s 32 does not contain sufficient protections, a further exemption can be inserted. NSW Health should have the same legal obligations as other organisations in reporting risks of modern slavery in their supply chains, which includes risks of trafficking in human organs.

Please do not hesitate to contact ALHR if you require further information.

Kind regards,

Madeleine Bridgett

**Madeleine Bridgett, Natalia Szablewska & Jessica Hatherall**

Co-Chairs, Business and Human Rights Subcommittee

Australian Lawyers for Human Rights

***ALHR was established in 1993 and is a national association of Australian solicitors, barristers, academics, judicial officers and law students who practise and promote international human rights law in Australia. ALHR has active and engaged National, State and Territory committees and specialist thematic committees. Through advocacy, media engagement, education, networking, research and training, ALHR promotes, practices and protects universally accepted standards of human rights throughout Australia and overseas.***