

**Submission
No 97**

**INQUIRY INTO MODERN SLAVERY ACT 2018 AND
ASSOCIATED MATTERS**

Organisation: Unions NSW
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Modern Slavery Act 2018 and associated matters

Standing Committee on Social Issues

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Introduction

1. Unions NSW is the peak body for trade unions and union members in NSW and has over 65 affiliated unions and Trades and Labour Councils representing approximately 600,000 workers across the State. Affiliated unions cover the spectrum of the workforce in both the public and private sector.
2. Unions NSW thanks the committee for the opportunity to make a submission to the Inquiry. Unions NSW reiterates its support for the *Modern Slavery Act 2018*. This legislation is an important step in shining a spotlight on the practice of modern slavery, both in Australia and abroad. This legislation's focus on transparency is an important tool for the eradication of modern slavery.
3. Modern Slavery restricts the freedom and civil liberties of individuals where work is extracted under the threat of penalty. In recent years the existence of modern slavery in Australia has been brought to the forefront through multiple cases of exploitation of migrant workers. Internationally, modern slavery continues in a range of industries that are inextricably linked to supply changes of goods and services provided to the people of NSW. There is a community expectation that our Governments must do all within their power to end modern slavery. This Act is an important part of this work, to this end, Unions NSW recommends the commencement of the Act as soon as practically possible.
4. The Unions NSW submission will specifically address the terms of reference:
 - a) The operability of the proposed anti-slavery scheme;
 - b) The effect of the anti-slavery scheme on business;
 - g) Whether the passage of the Modern Slavery Act (2018) render parts or all of the NSW Act unnecessary.

Operability of the proposed anti-slavery scheme

5. Unions NSW support the strong stance of the NSW Government is taking by making NSW businesses accountable for slavery in their supply chains and taking pro-active steps to end

the practice of slavery.

6. Unions NSW is mindful the review of the Modern Slavery Act is seeking to resolve drafting issues with the original legislation as well as provide further guidance with the Regulation. However, there are some key elements Unions NSW believe are important to the effective operation of the legislation which are worth noting:
 - a. The \$50 million threshold for businesses should be maintained. This is aligned with the UK legislation threshold of £36 million¹. This threshold also captures businesses who are not required to report under the Federal legislation².
 - b. Reporting exemptions for companies with 20 or fewer employees should be rejected. The \$50 million threshold for reporting ensures companies required to report are not small operations. Basing this exemption on the number of employees would exempt companies who engage a large number of independent contractors or who engage workers through labour hire firms. Arguably the supply chains and labour practices of these firms are of high interest to the Commissioner and should be covered by the reporting requirements of the legislation.
 - c. Penalties for reporting non-compliance should be maintained. This is crucial in ensuring engagement with the business community. As demonstrated with the experience of the UK, voluntary reporting is not effective³. In the UK only 23 per cent of reporting companies are meeting the minimum requirements of the Act⁴.
 - d. The specific inclusion of government procurement should be maintained. There is a strong community expectation that the NSW Government's supply chains and provision of services are free from slavery. The requirement to consider risks for slavery in government supply chains is an important element of this legislation.

¹ Modern Slavery Act, 2015, United Kingdom.

² Modern Slavery Act, 2018, Australia.

³ Modern Slavery Act, 2015, United Kingdom.

⁴ Business and Human Rights Resource Centre, 26 March 2019, available from: <https://www.business-humanrights.org/en/the-modern-slavery-act-turns-four-today-is-it-working-and-how-can-it-be-improved#nav>

- e. The Act should be implemented as soon practical. The legislation has been debated in the Parliament, the business community has been engaged in consultation and the Act has received assent. Following the minor updates provided for in the draft Bill, the legislation should be implemented without delay.

Effect on the anti-slavery scheme on business

7. It is acknowledged that there will be some cost to business who undertake reviews of their supply chains and risks for slavery when preparing Modern Slavery Statements. However, the benefits outweigh the costs.
8. The reporting scheme creates an even playing field for businesses doing the right thing by ensuring their supply chains are slavery free. No business should profit or gain a market advantage from slavery. Mandatory reporting will make companies more transparent and accountable to identifying and rectifying slavery. The human and economic cost of modern slavery both in Australia and abroad is unacceptable.
9. The NSW legislation should also include the option for companies to voluntarily submit a Modern Slavery Statement and for this statement to be published. Increasingly, consumers are seeking assurances that the companies and organisations they engage with are ethical in their labour practices including through their supply chains. The option for companies to voluntarily report encourages ethical business practices and should be encouraged by this legislation. The Federal legislation includes a provision for voluntary reporting.

Whether the passage of the Modern Slavery Act (2018) render parts or all of the NSW Act unnecessary

10. The Federal *Modern Slavery Act 2018* and the NSW *Modern Slavery Act 2018* are complimentary to each other. The NSW Legislation is a better piece of legislation which includes more comprehensive reporting requirements and protections for people who have or are experiencing modern slavery.
11. Particular strengths of the legislation which should not be watered down through this review process include:

- a. Mandatory reporting of Modern Slavery Statements, with penalties applicable for non-reporting.
- b. Victim support and compensation
- c. Appointment of an independent Anti-Slavery Commissioner

12. The *Modern Slavery Regulation 2019* clearly delineates the reporting requirements of businesses between the State and Federal Legislation. Only businesses earning between \$50 and \$100 million are required to report under the NSW Legislation. This ensures there is not unnecessary doubling up in the reporting requirements of business.

Conclusion

13. Unions NSW supports increasing transparency in supply chains as a mechanism for stamping out modern slavery both in Australia and abroad. Unions NSW supports prompt enactment of a comprehensive *Modern Slavery Act*, which includes mandatory reporting requirements for businesses.