

**Submission
No 9**

INQUIRY INTO REVIEW OF THE MODERN SLAVERY ACT 2018

Organisation: NSW Small Business Commissioner

Date Received: 6 October 2023



Dr Joe McGirr MP
Committee Chair
Modern Slavery Committee

By email: modern.slavery@parliament.nsw.gov.au

Dear Dr McGirr

Thank you for the opportunity to provide feedback to the Review of the *Modern Slavery Act 2018*.

The NSW Small Business Commissioner (the Commission) is an independent statutory office of the NSW Government. It provides advice, advocacy and affordable dispute resolution services to small businesses across NSW.

The impact of the Modern Slavery Act on small business

The Commonwealth *Modern Slavery Act 2018* (Commonwealth Act) requires the Commonwealth Government, large businesses and other organisations with annual revenue of \$100 million or more (reporting entities) to prepare annual Modern Slavery Statements reporting on their efforts to assess and address modern slavery risks in their global operations and supply chains. Large entities have the capacity and leverage to drive change through their supply chains and influence a reduction in incidence of modern slavery worldwide.

The NSW *Modern Slavery Act 2018* (NSW Act), which commenced on 1 January 2022, requires large organisations such as NSW Government agencies and local Councils not already required to report under the Commonwealth Act to take reasonable steps to ensure goods and services they procure are not the product of modern slavery. Small businesses are not required to report under the modern slavery legislation. As suppliers to larger entities, small businesses may be asked to provide information to help those organisations meet any reporting or other obligations.

While the intention of modern slavery legislation is not for large entities to shift their obligations down the line onto small businesses in their supply chains, small business suppliers necessarily play a key role in assisting larger entities to identify, understand and address their modern slavery risks.

While small businesses are generally excluded from the definition of a reporting entity, the Commission has published guidance for small businesses and what they need to know in relation to modern slavery. The Commission's guide: [Modern slavery: information for small business](#), includes strategies small businesses can implement to ensure they can effectively mitigate risks and are able to assist larger businesses they deal with as appropriate. The guide also provides a template Anti-Slavery Policy.

Effectiveness of Modern Slavery legislation

The Commission is aware the Federal Government released a report in May 2023 making 30 recommendations to strengthen the effectiveness of modern slavery legislation. Noteworthy is a recommendation to reduce the reporting revenue threshold from \$100 million to \$50 million which will capture additional businesses. If implemented, this would subsequently impact the NSW legislation due to the definition of a reporting entity, and in turn have the potential to capture smaller businesses that are often not as well-resourced.

As there is no mandatory or standard templates for a Modern Slavery Statement for reporting entities, small businesses could be asked to provide a wide variety of information such as:

- A supplier questionnaire
- Information on operations and supply chains, whether there are any risks of modern slavery present and the steps the small business has taken or plans to take to identify and address these risks
- An Anti-Modern Slavery policy (if the small business has one) or other relevant policies and procedures
- Information on the make-up of their workforce
- Information on grievance processes available for their workers
- Information on the geographic regions and countries where they source from.

While a flexible approach can assist in reporting entities to meet their obligations, this can also give rise to additional compliance burden for supplying small businesses if different buyers request different and inconsistent information. Larger buyers can have a high degree of negotiating power and can often impose requirements without consideration of whether smaller suppliers are able to meet them. This has the potential to be contrary to the intent of the policy if it encourages larger entities to 'pass on' their responsibilities in a manner that is overly burdensome for their small business suppliers.

For these reasons, the Commission advocates for and encourages the continued observation of impacts of modern slavery legislation on small business, as well as the exploration of ways to support reporting entities and their suppliers to meet their obligations.

Thank you for the opportunity to make a submission.

Yours sincerely

Chris Lamont
Commissioner
NSW Small Business Commission

Date: 05/10/23