

Modern Slavery Act 2015 update – proposed changes to section 54 requirements

Section 54 of the Modern Slavery Act 2015 now requires any commercial organisation which supplies goods or services in the UK and has an annual turnover of £36m or more to publish an annual slavery and human trafficking statement.

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Our [previous legal update](#) explained how section 54 of the Modern Slavery Act 2015 (MSA) now requires any commercial organisation which supplies goods or services in the UK and has an annual turnover of £36m or more (including its subsidiaries - wherever based) to publish an annual slavery and human trafficking statement on its website in respect of each financial year.

Based on the current legal requirements, this statement must describe the steps the organisation has taken that financial year to ensure modern slavery and human trafficking is not occurring in any part of its business or supply chains – or, if appropriate, simply state that the organisation has taken no such measures. For a company, this statement has to be approved by the board and signed by a director before being published.

However, on 23 May 2016 the Modern Slavery (Transparency in Supply Chains) Bill (the Bill) had its first reading in the House of Lords. The Bill amends the current requirements of section 54 by explicitly extending the requirement to ‘public bodies’ – these are defined as “*bodies governed by public law*”, a “*contracting authority*” or a “*central government authority*” within the meaning of regulation 2 of the Public Contracts Regulations 2015.

Since section 54 came into force in October last year there has been much debate around whether certain ‘public bodies’ fall within the definition of a ‘commercial organisation’ and could therefore be caught by the requirements of section 54 – especially in light of government guidance which said that it did not matter for what purpose an organisation made profits or whether the organisation pursues primarily charitable or educational aims or carries on purely public functions. We had always worked on the basis that certain ‘public bodies’ were caught if they otherwise fulfilled the relevant criteria but the Bill provides welcome clarification on this point. Previous updates on this include:

- [Are you ready for the Modern Slavery Act 2015? ‘Commercial Organisations’ analysis](#)
- [A slave to the NHS? Modern Slavery and the NHS Supply Chain](#)
- [Public matters December 2015 - which includes a look at whether section 54 applies to local authorities?](#)

The Bill also further provides that the slavery and human trafficking statement must be included in a commercial organisation’s and public body’s annual report and accounts – which is a new requirement. Currently an organisation just has to publish it on its website (on the assumption that it has one).

In addition, the Bill inserts a new paragraph 1A into regulation 57 of Public Contracts Regulations 2015 – providing that a contracting authority must exclude an economic operator from participating in a procurement process where they have established, applying prescribed verification regulations, that the economic operator has failed to produce a slavery and human trafficking statement when it was obliged to do so. It is proposed that the Secretary of State will publish guidance for contracting authorities on compliance with these requirements.

Finally, the Bill states that the Secretary of State must publish a list of all commercial organisations that are required to publish a statement under section 54 – this list must be published in a place and format that it easily accessible and the organisations in the list must be categorised according to sector.

The second reading of the Bill has not yet been scheduled – we will issue further updates as the position evolves.

Author



Raymond Silverstein

Partner

raymond.silverstein@brownejacobson.com

+44 (0)207 337 1021