

PRI RESPONSE

CALL FOR EVIDENCE – 2015 MODERN SLAVERY ACT

5 April 2024

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To inform this briefing, the following investor group has been consulted: PRI UK & Ireland signatories. This consultation is not an endorsement or acknowledgement of the views expressed in this briefing.

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ABOUT THE PRI

The Principles for Responsible Investment (PRI) works with its international network of signatories to put the six Principles for Responsible Investment into practice. Its goals are to understand the investment implications of environmental, social and governance (ESG) issues and to support signatories in integrating these issues into investment and ownership decisions. The PRI acts in the long-term interests of its signatories, of the financial markets and economies in which they operate and ultimately of the environment and society as a whole.

The six Principles for Responsible Investment are a voluntary and aspirational set of investment principles that offer a range of possible actions for incorporating ESG issues into investment practice. The Principles were developed by investors, for investors. In implementing them, signatories contribute to developing a more sustainable global financial system.

The PRI develops policy analysis and recommendations based on signatory views and evidence-based policy research. The PRI welcomes the opportunity to respond to the House of Lords Select Committee on the Modern Slavery Act 2015 call for evidence on the impact of the 2015 Modern Slavery Act, and its effectiveness in achieving its aims.

ABOUT THIS CONSULTATION

The House of Lords Select Committee on the Modern Slavery Act 2015 (“the MSA” or “the Act”) is [seeking evidence](#) on the impact of the 2015 Modern Slavery Act, and its effectiveness in achieving its aims. The Committee’s inquiry will also consider how the Act’s provisions have been implemented, how the Act has been impacted by recent political developments, and whether the Act is in need of improvement.

This response will focus primarily on the reporting requirements set in Section 54 of the Modern Slavery Act.

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KEY RECOMMENDATIONS

Nine years after the publication of the Act, modern slavery remains a widespread phenomenon across the world. A recent report from the International Labor Organization found that Forced labour in the private economy generates US\$236 billion in illegal profits per year, up 37% since 2014.¹

The PRI has previously participated in the Finance Against Slavery & Human Trafficking project under the Lichtenstein Initiative,² supporting the publication of the Blueprint for Mobilizing Finance Against Slavery and Trafficking.³ The Blueprint includes a set of Goals, providing a framework for the whole financial sector and professional service providers to demonstrate their commitment to accelerating action to end modern slavery and human trafficking.

In a context of increased focus on the transition to a sustainable financial system, modern slavery and human rights are prominent concerns: the minerals necessary for the transition (such as cobalt, gold, tungsten, and rare earth materials) are often sourced from countries with weak regulatory environments in terms of decent work and anti-modern slavery provisions.⁴ This represents a key risk for investors, who – in addition to their own internal processes – rely on regulation to ensure that their investment value chains are free of modern slavery.⁵

The MSA 2015 set an example for modern slavery acts across the world and has helped increase corporate and investors' awareness around the issue of modern slavery and decent work conditions. However, the effectiveness of modern slavery acts has been called into question in several jurisdictions.⁶ The PRI's main recommendation on next steps for the MSA are set out below.

- **Introduce appropriate monitoring and accountability mechanisms:** to ensure the Act achieves its goals of increasing transparency on companies' approach to modern slavery, the existing Modern Slavery Statement registry should be adopted at statutory level, and should include a list of companies within the scope of the Act's requirements. In addition, the effectiveness of the Act in tackling Modern Slavery has been impaired by a lack of enforcement action, coupled with a lack of pecuniary fines for non-compliance. Strengthening the monitoring and accountability mechanism and introducing a system of fines for companies identified as non-compliant, at an appropriate level to discourage non-compliance, would help increase compliance with the provisions in the Act.
- **Expand the current disclosure requirements** to expressly include companies' own operations (including subsidiaries) as well as their value chains, recognising that negative human rights impacts can occur throughout the full value chain including downstream in relation to workers, customers and end-users; **mandate disclosure of the currently suggested voluntary elements** under Section 54 of the Act; and **introduce new elements for mandatory disclosure**

¹ ILO (2024) [Profits and Poverty: The Economics of Forced Labour](#).

² [Finance Against Slavery and Trafficking \(FAST\)](#).

³ FAST Initiative (2019) [Unlocking Potential: A Blueprint for Mobilizing Finance Against Slavery and Trafficking](#).

⁴ For example, children have been found to be present at about 30% of cobalt artisanal and small-scale mining sites in the DRC – International Energy Agency (2023) [The Role of Critical Minerals in Clean Energy Transitions](#).

⁵ AllianceBernstein (2023) [Modern Slavery in Mining Looms as a Key Risk to Investors](#).

⁶ Business and Human Rights Resource Centre (2021), [Modern Slavery Act: Five Years of Reporting](#). With regards to jurisdictions beyond the UK, please see the report from the Australian Human Rights Institute and University of New South Wales [Testing the effectiveness of Australia's Modern Slavery Act](#).

that would align the UK approach with international standards and emerging regulation in other jurisdictions.

- **Adopt corporate Human Rights and Environmental Due Diligence (HREDD) regulation aligned with international standards:** while disclosure is an important first step, it has been shown not to be effective in ensuring the protection of modern slavery victims on its own. In line with global developments, regulations should require companies to continuously identify, prevent, and mitigate negative human rights impacts (such as those caused by modern slavery and forced labour). This would support coherency and compatibility with other regulatory requirements; allow investors to fulfil their responsibility to respect human rights under the UN Guiding Principles on Business and Human Rights and OECD Guidelines for Multinational Enterprises; and protect investors from reputational risks, helping them to achieve higher risk-adjusted returns.

DETAILED RESPONSE

Question 2: Whether the Act has kept up-to-date with developments in modern slavery and human trafficking, both within the UK and internationally

As the first national regulation of its kind, the 2015 Modern Slavery Act has been a meaningful first step to tackle modern slavery, which has been replicated in various jurisdictions. However, reviews across countries have highlighted the limitation of these types of Acts. The focus on disclosures does not spill over to action against modern slavery, and the reliance on public pressure on companies in place of monitoring and enforcement mechanisms has reduced their effectiveness. For this reason, a more holistic approach that considers due diligence more broadly would be preferable in terms of effectiveness in combatting phenomena like modern slavery and forced labour.

International developments in adoption of Modern Slavery Acts

Together with the California Supply Chains Act 2010,⁷ the UK Modern Slavery Act has had a transformative effect on global regulation on modern slavery. Similar regulations have since been adopted in Australia⁸ and, more recently, Canada.⁹ These Acts have expanded upon the model introduced by the United Kingdom. For example:

- **broader disclosures:** both acts mandate disclosure on a set of issues, whereas the UK system does not have a set of mandatory disclosures beyond on ‘the steps the organisation has taken during the financial year to ensure that slavery and human trafficking is not taking place’;¹⁰
- **due diligence and remediation practices:** the Australian Modern Slavery Act explicitly requires the disclosure of information on due diligence and remediation practices, something that the UK Act only includes as a voluntary element to be disclosed;¹¹
- **use of penalties:** the Canadian Modern Slavery Act imposes specific penalties for non-compliance, while the UK MSA does not include.¹²

Limitations of Modern Slavery Acts

While New Zealand introduced a regulation along the lines of the UK MSA, focused on disclosure, the Government indicated it will develop proposals for stronger due diligence requirements at a later stage.¹³ Businesses with international supply chains are also encouraged to “assess the risk of modern slavery including forced labour in their supply chains and implement human rights due diligence as applicable”, in line with international standards such as the UN Guiding Principles on Business and Human Rights,¹⁴ and the OECD Guidelines for Multinational Enterprises.¹⁵

⁷ State of California Department of Justice (2010) [The California Transparency in Supply Chains Act](#).

⁸ Australian Government (2018) [Modern Slavery Act 2018](#).

⁹ Government of Canada (2023) [Fighting Against Forced Labour and Child Labour in Supply Chains Act \(S.C. 2023, c. 9\)](#).

¹⁰ Modern Slavery Act 2015, Section 54, 4(a)

¹¹ RightsDD (2018) [Reporting under the UK Modern Slavery Act \(2015\) and the Australian Modern Slavery Act \(2018\): A comparison](#).

¹² DLA Piper (2023) [Reporting obligations under new Canadian modern slavery legislation: What does a multinational business need to know?](#)

Respondents to a study conducted on the Australian Modern Slavery Act highlighted the importance of **alignment with international standards**: 67% of respondents stated that they would find it easier to comply with the Modern Slavery Act if it were harmonised with international standards such as the UN Guiding Principles on Business and Human Rights (UNGPs),²¹ while over 10% would likely improve modern slavery responses if required to undertake human rights due diligence.

The review of the Australian Modern Slavery Act also shows doubts about the effectiveness of the Act as it is currently designed, stating that “A widely endorsed view in the consultations for this review is that there is no hard evidence that the Modern Slavery Act in its early years has yet caused meaningful change for people living in conditions of modern slavery.”¹⁶ The report further states that “an elementary weakness in the Modern Slavery Act is that it only imposes an obligation on entities to describe their due diligence system. The Act should go further and impose a duty to implement and utilise such a system.”

Developments on due diligence regulations

Beyond the adoption of the MSAs, developments in the regulation on human rights show that the momentum is heading towards the adoption of more effective tools, namely due diligence regulations.¹⁷

From an investor perspective, due diligence mechanisms support investor’s sustainability assessments; enhance risk analysis and processes for impact prevention, mitigation and remediation; and provide greater understanding of investee companies, throughout the value chain. It also enables responsible investors to conduct better-informed engagement with investees, to respect human rights and give due consideration to environmental issues.¹⁸

Public support is also high for due diligence regulations. In 2022 New Zealand ran a consultation on proposed legislation to address modern slavery and workers exploitation.¹⁹ The consultation found that:

- 90% of respondents (including individuals, civil society organisations and business of different sizes) agreed or strongly agreed with the suggestion that “large-sized entities should be required to meet due diligence obligations to prevent and mitigate modern slavery in their international and domestic operations and supply chains”;²⁰
- 87% of respondents supported extending this requirement to small and medium-sized entities, with some limitations; and
- 93% of respondents agreed or strongly agreed with the suggestion that “all entities should have to take reasonable and proportionate action if they become aware of modern slavery in their international operations and supply chains, and/or modern slavery or worker exploitation in their domestic operations and supply chains”.

¹⁶ Australian Government (2023) [Report of the statutory review of the Modern Slavery Act 2018 \(Cth\): The first three years](#), p.8.

¹⁷ BIICL (2022) [What is next for human rights due diligence?](#)

¹⁸ PRI (2020) [Why and how investors should act on human rights](#).

¹⁹ Ministry of Business, Innovation & Employment (2022) [Consultation on modern slavery and worker exploitation](#).

²⁰ Ministry of Business, Innovation & Employment (2022) [Consultation on Legislation to Address Modern Slavery and Worker Exploitation](#), p.30.

The EU is in the process of adopting the Corporate Sustainability Due Diligence Directive, while a number of European jurisdictions (including France, the Netherlands, Germany, and Norway) have already implemented national legislation in this regard. In 2022, Japan released the Guidelines on Respecting Human Rights in Responsible Supply Chains.²¹ In the same year, G7 countries committed to “working towards an international consensus on business and human rights to strengthen compliance with international standards, including through mandatory measures that protect rights-holders”.²²

The review of the Australian Modern Slavery Act conducted in 2023 highlights a similar preference for the introduction of due diligence requirements.²³ The recommendations to the Australian Government for the update of the Act include, among others, the suggestion to **include a requirement for reporting entities to have a due diligence system**, and to explain the activities undertaken in accordance with the system in the entity’s annual modern slavery statement.

Question 3: The efficacy of the provisions of the Act relating to supply chains

The efficacy of the MSA in changing corporate behaviour has been limited. A study by the Business and Human Rights Resource Centre concluded that “[the Centre’s] analysis of five years’ worth of statements in the Modern Slavery Registry has revealed no significant improvements in the vast majority of companies’ policies, practice or performance.”²⁴ Furthermore, the study estimated that “around two in five in-scope companies [were] not complying with the Act, yet the government has never used its power to seek an injunction through the courts to compel a company to publish a statement.”

In 2022 the Financial Reporting Council published further research, showing similar results.²⁵ The research focused on a sample of 100 companies comprising FTSE 100, FTSE 250, and Small Caps, and revealed that:

- 12% of companies failed to produce a Statement;
- 5% of Statements didn’t contain information on final sign-off; and
- 13% of companies failed to publish their Statement on their website’s homepage.

Other limitations were identified, including the fact that “the majority of statements were fragmented, lacking a clear focus and narrative, or were unduly complicated”, and that “, the vast majority of modern slavery statements were wholly backward-looking, with only a minority clearly identifying emerging issues or a long-term strategy”.

The situation is similar in other jurisdictions. A 2022 study on the effectiveness of the Australian Modern Slavery Act revealed that, out of 102 companies in high-risk sectors:

²¹ Inter-Ministerial Committee on Policy Promotion for the Implementation of Japan’s National Action Plan on Business and Human Rights (2022) [Guidelines on Respecting Human Rights in Responsible Supply Chains](#).

²² [2022 G7 Leaders’ Communique](#).

²⁴ Business and Human Rights Resource Centre (2021) [Modern Slavery Act: Five Years of Reporting](#).

²⁵ Financial Reporting Council (2022) [Modern Slavery Reporting Practices in the UK - Evidence from Modern Slavery Statements and Annual Reports](#).

- 77% of companies reviewed had failed to comply with the basic reporting requirements mandated by the legislation;
- 52% had failed to identify obvious modern slavery risks in their operations or supply chains; and
- just 27% of companies appeared to be taking some form of effective action to address modern slavery risks.²⁶

With specific regard to the financial sector, there is still an issue of **lack of awareness** around the risk of modern slavery. The results of the PRI 2022 reporting cycle show that 41% of reporting signatories have publicly available guidelines on human rights, and around a third use the UNGPs to identify sustainable outcomes. In addition to assessing modern slavery risk in relation to suppliers, **financial sector organisations should also look at modern slavery risk in their investees companies and their customers.**

One of the stated goals of the Act was to “empower investors, consumers and civil society to scrutinise the action taken across both the private and public sector.”²⁷ The MSA has managed to focus the attention on the role of companies in combating modern slavery along supply chains. However, **simple disclosure on the issue, especially with a voluntary approach like the one adopted by the Act, is currently not enough to drive change.**

Question 6: Suggestions for improvements that could be made to the Act to help it to better achieve its aims

A set of actions should be taken to improve on the current system. These include the following:

- **enhanced monitoring and accountability**, including through financial penalties for non-compliance;
- **mandatory disclosure** of the elements identified in Section 54 of the Act; and
- explicit **expansion of the scope** of the Act to cover companies' value chains.

Better accountability mechanisms are necessary, including through **financial penalties**, as recommended by the 2020 independent review of the Act, and reinforced by the Foreign Secretary's 2021 announcement.²⁸ The current system gives the Secretary of State the power to bring civil proceedings in the High Court for an injunction requiring companies to comply with Section 54 of the Act. However, to date no proceedings have been initiated for companies failing to produce a statement as required by Section 54.

In contrast with the current UK regime, the Canadian Modern Slavery Act enacts penalties for non-compliance. Failure to produce, publish, or make available an annual report or obstructing or failing to assist in an investigation is an offense punishable by fines up to CAD250,000. Over half (54%) of the respondents to a survey on the update of the Australian Modern Slavery Act supported the view that

²⁶ Human Rights Law Centre and others (2022) [Broken Promises: Two years of corporate reporting under Australia's Modern Slavery Act](#)

²⁷ Home Office (2020) [Transparency in Supply Chains Consultation - Government Response](#).

²⁸ Foreign, Commonwealth & Development Office, Home Office, Department for International Trade (2021) [Press Release: UK Government Announces Business Measures Over Xinjiang Human Rights Abuses](#).

introducing financial penalties – something that is not currently part of the Australian Act – would likely improve modern slavery responses.

A second area of improvement relates to the **list of issues to be disclosed under Section 54 (5)**. Currently, the disclosure of these elements is voluntary. Making these disclosures mandatory would ensure consistency across statements, and provide stakeholders with the information needed to understand the actions taken by the company. This is particularly true for point (c) of Section 54 (5), relating to “[an organisation’s] due diligence processes in relation to slavery and human trafficking in its business and supply chains”. As highlighted above, corporate due diligence processes can be of particular importance for stakeholders – including investors – to assess a company’s performance on tackling modern slavery, forced labour, and other human rights impacts. Transparency on their existence (or lack thereof) would be a first step in this direction.

Guidance should also be provided with regards to the indicators mentioned in the following point (e) of Section 54 (5), against which companies should monitor their effectiveness. Providing a list of indicators would enhance consistency across statements.

Further areas of disclosure that should be made mandatory include the following.

- Details of incidents of modern slavery identified during the reporting period.
- Grievance mechanisms put in place by the company to hear and address complaints related to modern slavery.
- Stakeholder engagement undertaken by the company during the reporting period on the issue of modern slavery.

Lastly, the **scope of the disclosure requirements under Section 54 of the Act should be expanded**. Currently, companies must publish a statement highlighting ‘the steps the organisation has taken during the financial year to ensure that slavery and human trafficking is not taking place—

- (i) in any of its supply chains, and
- (ii) in any part of its own business.’²⁹

There is currently a drive, including in the discussions happening around proposed corporate due diligence regulations, to extend the requirements along a company’s “**value chain**”. The concept of value chain builds upon that of supply chain, expanding it to considering “the manner in which value is added along the chain, both to the product / service and the actors involved.”³⁰ This concept considers both internal and external stakeholders, taking a full-lifecycle perspective rather than focusing on upstream procurement.

Expanding the disclosure requirements to cover the whole value chain of products and services would increase the possibility of instances of modern slavery being identified, helping minimise risk for both companies and individuals. This should expressly extend beyond Tier 1 to include Tier 2 and, where possible, Tier 3 suppliers.

The PRI has experience of contributing to public policy on sustainable finance and responsible investment across multiple markets and stands ready to support the work of the House of Lords

²⁹ [Modern Slavery Act 2015](#).

³⁰ Cambridge Institute for Sustainability Leadership, [What is a value chain? Definitions and characteristics](#).

Select Committee further to improve the effectiveness of the Modern Slavery Act in the United Kingdom.

Please send any questions or comments to policy@unpri.org.

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