

POLICY BRIEFING

CANADA'S BILL S-211 FIGHTING AGAINST FORCED LABOUR AND CHILD LABOUR IN SUPPLY CHAINS ACT S.C. 2023, C. 9

November 2024

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ABOUT THIS BRIEFING

This briefing summarises the key elements of Canada's [Fighting Against Forced Labour and Child Labour in Supply Chains Act](#) which requires in scope Canadian companies to undertake a series of actions and disclosures to ensure that their supply chains are free from forced labour and child labour.

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INTRODUCTION

Canada's [Fighting Against Forced Labour and Child Labour in Supply Chains Act](#) aims to combat the use of forced labour and child labour in supply chains. The Act received royal assent on 11 May 2023, becoming part of the Statutes of Canada 2023. This briefing provides an overview of the Act's scope, key requirements, and the international context in which it was introduced.

KEY ELEMENTS

The Act requires certain entities in Canada, including businesses and government institutions, to report annually on measures taken to prevent and mitigate the risk of forced labour or child labour in their supply chains.

The Act aligns with global efforts to address human rights issues in supply chains and follows similar legislation in other jurisdictions, such as in the UK and Australia.

SCOPE

Entities that produce or import goods, or control entities that do so, are required to report if they are either listed on a Canadian stock exchange or meet two of the following three criteria:

- Have at least C\$20 million in assets;
- Generate at least C\$40 million in revenue; or
- Employ an average of at least 250 employees.

REQUIREMENTS

Companies must conduct due diligence, publish annual reports, and develop and implement remediation plans to identify, prevent, and mitigate the risks associated with these labour abuses. The reports must be approved by the entity's governing body and made publicly available, including being published on the entity's website.

Conduct due diligence:

- Companies are required to establish and carry out a due diligence process that includes measures to identify and assess the actual and potential risks of forced labour and child labour in their supply chains.
- This process should be ongoing and proactive, involving regular evaluations of the supply chain, including direct suppliers and, where possible, entities further down the supply chain.
- Companies are required to maintain records that document their due diligence processes and remediation actions. These records must be kept for a specified period and be available for inspection if requested by the authorities.

Publish annual reports:

- Companies must prepare and submit an annual report to the Minister that outlines the steps they have taken to prevent and mitigate the risks of forced labour and child labour in their supply chains.
- The report should detail the findings of the due diligence process, including any instances of forced labour or child labour identified.

- The report must also include information on the structure of the supply chain, the policies in place to assess and manage the risks, and any actions taken in response to identified risks.
- The annual report must be made available to the public, typically by publishing it on the company's website. This requirement aims to enhance transparency and allow stakeholders, including consumers and investors, to assess the company's efforts to address forced and child labour in its supply chains.

Develop and implement remediation plans:

- If a company identifies instances of forced labour or child labour in its supply chain, it must develop and implement a remediation plan.
- The remediation plan should address the harm caused and include measures to prevent recurrence. This may involve working with suppliers to improve labour practices, providing support to affected workers, and making changes to company policies and practices.
- Companies are expected to prioritise the well-being of affected individuals, particularly children, in their remediation efforts.

PENALTIES

The Act includes provisions for compliance monitoring and enforcement. Companies that fail to comply with the due diligence and reporting requirements may face penalties, including fines and other legal consequences.

Penalties are case-specific, and can include financial penalties to individuals or companies, criminal offences, court orders (to force remedy), and reputational.

NEXT STEPS

The Act came into force on 1 January 2024, and the first reports under the Act are due by no later than May 31, 2024. The Act has prompted businesses to review their supply chains and implement due diligence processes to identify and address risks related to forced and child labour.

REACTION

The reception to the Act has been generally positive, with many viewing it as a crucial step in the fight against modern slavery. However, there has been some criticism regarding the effectiveness of the Act, with concerns that it may not go far enough in ensuring compliance and that reporting alone may not lead to substantive changes in business practices.

Despite the positive steps, there are challenges in identifying and addressing forced labour in complex global supply chains. Critics argue that more robust enforcement mechanisms and penalties for non-compliance are needed to ensure the Act's effectiveness.

INTERNATIONAL CONTEXT

Corporate responsibility in addressing modern slavery has gained increasing attention in recent years, as stakeholders, including investors, consumers, and governments, have called for companies to take more proactive steps to identify and mitigate risks of forced labour and human trafficking in their operations and supply chains.

Modern slavery, which includes practices such as forced labour, debt bondage, and human trafficking, affects millions of people worldwide. Many companies, particularly those with complex global supply chains, may be unknowingly contributing to or benefiting from modern slavery. Industries such as agriculture, manufacturing, construction, and mining are considered high-risk sectors for modern slavery.

In response to growing concerns, various international frameworks and legislation have emerged to encourage or require companies to address modern slavery risks. For example:

- The United Nations Guiding Principles on Business and Human Rights (UNGPs), endorsed in 2011, provide a global standard for preventing and addressing the risk of adverse human rights impacts linked to business activity.
- The UK Modern Slavery Act 2015 requires certain companies operating in the UK to publish an annual statement outlining the steps they have taken to ensure that modern slavery is not taking place in their operations and supply chains.
- The California Transparency in Supply Chains Act of 2010 requires large retailers and manufacturers doing business in California to disclose their efforts to eradicate slavery and human trafficking from their supply chains.
- The Australian Modern Slavery Act 2018 requires certain entities based or operating in Australia to report annually on the risks of modern slavery in their operations and supply chains, and the actions taken to address those risks.

In addition to complying with legal requirements, many companies have voluntarily adopted policies and practices to address modern slavery risks, such as:

- Conducting human rights due diligence to identify and assess modern slavery risks in their operations and supply chains.
- Developing and implementing supplier codes of conduct that prohibit the use of forced labour and promote fair labour practices.
- Providing training to employees and suppliers on modern slavery risks and prevention.
- Collaborating with industry peers, civil society organizations, and governments to share best practices and drive collective action.

Despite these efforts, many challenges remain in effectively identifying and addressing modern slavery risks. These include the complexity and opacity of global supply chains, limited visibility into supplier practices, and the need for more robust enforcement mechanisms.

As stakeholder expectations continue to evolve, companies are likely to face increasing pressure to demonstrate their commitment to eradicating modern slavery and to take more proactive and transparent steps to manage these risks. This may involve strengthening due diligence processes, enhancing disclosure and reporting, and collaborating more closely with stakeholders across the value chain.

As the Act's implementation unfolds, there will likely be ongoing discussions about its impact and potential improvements. The upcoming reports will provide insight into how Canadian entities are addressing these human rights concerns in their supply chains and may lead to further legislative or policy developments.

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