

AUGUST UPDATE

## Australian Government targets modern slavery

As the abolition of child labour is a priority of the United Nations, Australia is formally addressing working standards domestically to eradicate modern slavery, **Dr John Purcell** writes.

In parliament's winter sitting, the Australian Government introduced the *Modern Slavery Bill 2018*. It requires entities with annual turnover greater than \$A100 million to report on the risks of modern slavery in both their operations and supply chains. Subject to the successful passage of the Bill, the formal obligation to report will be effective from 2020 and apply to an estimated 2000 entities operating in Australia.

### A MATTER OF HUMAN RIGHTS

The reporting regime is modelled on the UK *Modern Slavery Act 2015* and occurs against the backdrop of similar initiatives,

notably those in the US state of California and in the European Union, to combat the evils of modern slavery. The regime consists of a range of measures spanning criminal law, supply chain transparency, sound governance and due diligence.

These initiatives typically reference the major international pronouncements contained in the United Nation's (UN) *Guiding Principles on Business and Human Rights (UNGPs)*. The UNGPs is based on the principles of recognising a sovereign government's obligation to respect, protect and fulfil the human rights and fundamental freedoms of its workers. Most

importantly, the Australian Government's Bill also applies to the role of business enterprises as specialised organs of society required to comply with laws on human rights, including protection and remediation.

### A KEY ROLE FOR BUSINESS

The central function of business in combatting modern slavery is further reinforced by the promulgation by the Organisation for Economic Co-operation and Development (OECD) implementing supply chain due diligence guidance for sectors of high vulnerability, such as garments and footwear. The international context for

those measures can be seen in the 2016 UN Sustainable Development Goals, to which Australia is a signatory and due this year to report to the UN. This includes Australia's Voluntary National Review of both tiers of government and, where relevant, the business community's contribution to meeting the standards required by 2030.

### A BIG PROBLEM

Goal Eight, dealing with decent work and economic growth, targets immediate and effective measures to eradicate forced labour, end modern slavery and human trafficking, and by 2025 end child labour in all its forms. If there were any doubt, the collaboration of government, business and civil society is compelling the pursuit of enduring solutions.

To help grasp the magnitude of the problem, estimates indicate that there are up to 45 million victims of modern slavery worldwide. The International Labour Organization estimates that globally there are also approximately 21 million victims of forced labour.

### ACCOUNTING QUESTIONS

The *Modern Slavery in Supply Chains Reporting Requirement* occurs after extensive consultation across 2017. It reflects the government's longstanding international commitments, with ministerial responsibility now sitting with the Department of Home Affairs, which will be responsible for



maintaining the repository of Modern Slavery Statements. The Bill uses International Finance Reporting Standards (IFRS) to determine threshold matters, such as reporting entity and consolidated revenue.

However, of potentially greater significance, it presents opportunities and challenges for accountants in a range of areas, including due diligence, narrative disclosures, governance advice and assurance. An interesting line of inquiry will be the capacity offered through blockchain technology.

Residency, in turn, to determine an "Australian entity" for reporting purposes, applies taxation law principles of central management and control. Also noteworthy is the reporting obligation applying to the Commonwealth and Commonwealth corporate entities.

### STATEMENT REQUIREMENTS

An entity's Modern Slavery Statement will, at a minimum, include information about the following:

1. The entity's structure, its operations and supply chains.
2. Whether or not modern slavery risks are present in the entity's operations and supply chains.
3. If such risks are identified, the entity's policies and process to address modern slavery in its operations and their effectiveness (such as codes of conduct, supplier contract terms and staff training), along with description and effectiveness of the entity's due diligence and remediation processes.

The Bill does not define "operations" or "supply chain", with these matters to be elaborated on with examples and guidance to be contained in a yet to be developed practice statement. Similarly, the Bill defines "modern slavery" only through cross-reference to the principal Act for combatting the wrongdoing – the *Criminal Code Act 1995*. Aside from the commonly understood notion of slavery as a condition of asserted exercise of power over

another akin to ownership, slavery-like conditions of "servitude" and "forced labour" are also addressed.

### A WORK IN PROGRESS

The *Modern Slavery in Supply Chain Reporting Requirement* cuts across subject matter potentially addressed in two key regulator instruments affecting disclosures by Australian listed entities: the ASX CGC Corporate Governance Principles and Recommendations, and directors' operating and financial review required under the 299A of the *Corporations Act 2001*.

Regardless, the Bill sets a reporting deadline of within six months after the end of the reporting period of the entity, calling into question whether the Modern Slavery Statement is "other information" requiring a form of audit verification. As to the "weight" of the obligation, the government has chosen, as is the case in the UK, not to include punitive penalties for non-compliance. It must also be

emphasised that the Modern Slavery Statement needs to be approved and signed by a member of the principal governing body of the entity, thereby raising the question of the nature and source of comfort that will be sought in making the required disclosure.

With a view to positioning accountants as key contributors to the development and oversight of an entity's Modern Slavery Statement, CPA Australia intends to develop resources for the profession. ■

### STAY IN TOUCH

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