

Opening Statement



3 August 2018

Modern Slavery Bill 2018

Opening Statement: Senate Legal and Constitutional Affairs Legislation Committee

Morry Bailes, President, Law Council of Australia

1. My name is Morry Bailes and I am the President of the Law Council. As the Committee would be aware, the Law Council is the peak national body representing the legal profession in Australia.
2. I thank the Committee for the opportunity to appear at this hearing today.
3. The Law Council considers addressing modern slavery to be of paramount importance. The Law Council has previously made submissions related to this issue, including to:
 - a. the Attorney-General's Department regarding its Consultation Paper on modern slavery in supply chains reporting requirement;
 - b. the Joint Standing Committee on Foreign Affairs, Defence and Trade's Inquiry into Establishing a Modern Slavery Act in Australia;
 - c. the Joint Committee on Law Enforcement's Inquiry into Human Trafficking; and
 - d. this Committee's Inquiry into Slavery, Slavery-like conditions and People Trafficking.
4. The Law Council also published a report in conjunction with Anti-Slavery Australia on *Establishing a National Compensation Scheme for Victims of Commonwealth Crime in relation to victims of human trafficking*.^[1] It is against this background of sustained support for action on modern slavery that I make my remarks today.
5. The Law Council congratulates the government on the introduction of the Bill and welcomes the proposed inclusion of a modern slavery reporting requirement for corporations and other entities operating in Australia.

The Law Council is pleased to note improvements to the model for reporting requirements proposed by the Attorney-General's Department in 2017.

In particular, the Law Council welcomes that the government will be subject to the reporting requirements, and that the 'worst forms of child labour' has been included in the definition of 'modern slavery'.

^[1] Law Council of Australia, Anti-Slavery Australia and the University of Technology Sydney, *Report on Establishing a National Compensation Scheme for Victims of Commonwealth Crime* (2016) <<https://lawcouncil.asn.au/lawcouncil/images/LCA-PDF/National-Compensation-Scheme-for-Victims-of-Commonwealth-Crime.pdf>>.

6. There are, however, areas for improvement, in our respectful submission. The Law Council has two major concerns with the Bill. First, in our view, the revenue threshold for attracting the reporting requirements is set too high to achieve the Bill's aims.

The Law Council recommends that the threshold be revised to \$60 million, from \$100 million. Second, the lack of penalties in the legislation for non-compliance with the reporting requirements means there is little incentive for entities to report.

The Law Council recommends that the legislation be amended to include financial penalties for non-compliance, and/or a requirement that entities bidding for government contracts must be up-to-date on reporting, if required to report. At the very least, these should be matters for express consideration when the legislation is reviewed in three years' time.

7. Further, the Law Council is concerned to ensure that key recommendations made by the Joint Standing Committee on Foreign Affairs, Defence and Trade in its report *Hidden in Plain Sight: An inquiry into establishing a Modern Slavery Act in Australia* be progressed.

Key omissions in this Bill include the creation of an Anti-Slavery Commissioner, to provide guidance and a mechanism through which concerns regarding company operations in relation to human rights violations or modern slavery may occur, and a national compensation scheme for victims of modern slavery.

The Law Council urges the government to consider amending the Bill and/or enacting other legislation to include these matters, or at the very least, consider including these matters when the legislation is reviewed in three years' time.

8. Finally, in conclusion, I would like to highlight that action on modern slavery must be only one part of wider action by Australia on business and human rights.

The Law Council hopes that Australia will move towards implementing the United Nations Guiding Principles on Business and Human Rights, or UNGPs. As the UNGPs represent the best international standard, the Law Council considers that the UNGPs should guide how businesses determine and respond to their modern slavery risks.

Therefore, the Law Council hopes the UNGPs will inform any further guidance for reporting entities and urges the government to reconsider a National Action Plan to implement the UNGPs in Australia.

9. More specific recommendations and further detail is provided in our submission. My colleagues and I are happy to answer any questions of the Committee.

Thank you.

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