

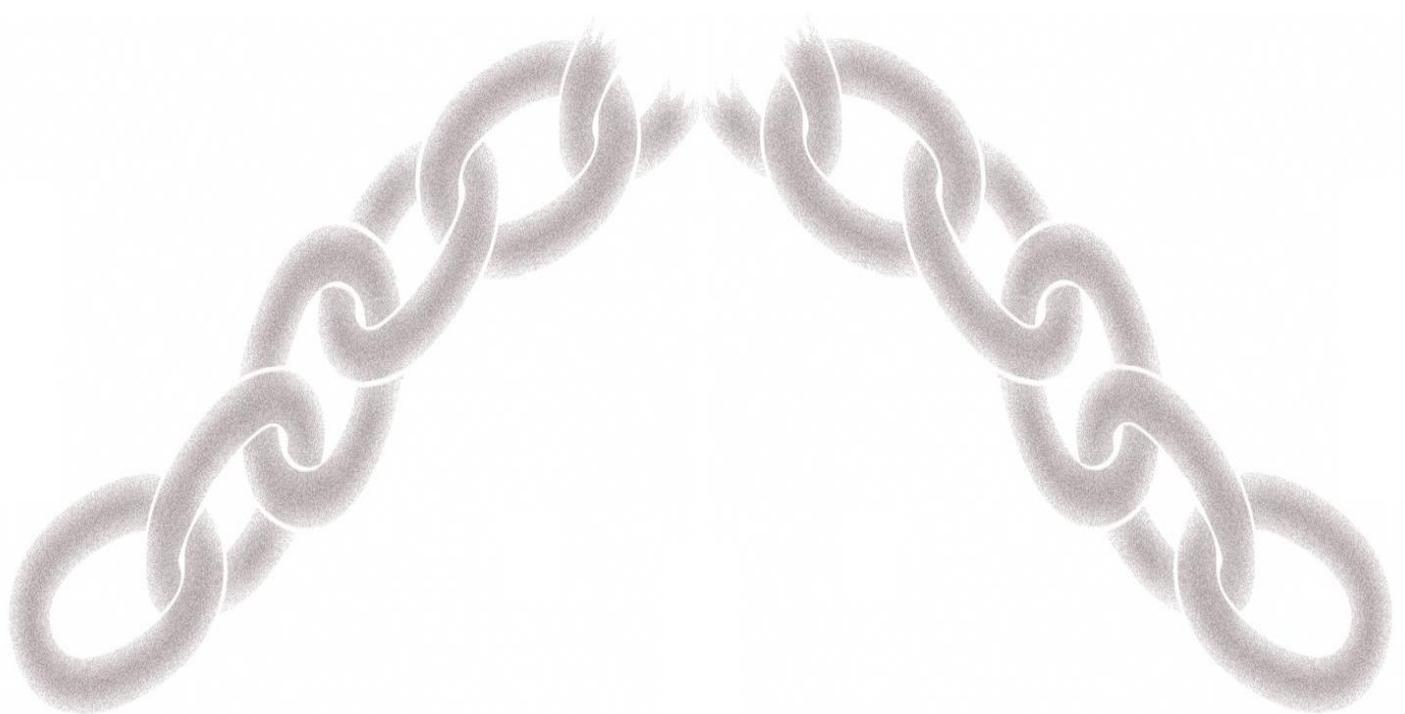


Timber Trade Federation

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**Slavery, Trafficking and Supply Chains:  
A brief guide to the Modern Slavery Act**

v2 Jan 2017





# Slavery, Trafficking and Supply Chains: A brief guide to the Modern Slavery Act

## What is the Modern Slavery Act?

The [Modern Slavery Act \(MSA\)](#) is a piece of legislation brought into force in October 2015. It is designed to take action in preventing the exploitation, servitude and trafficking of people who may be forced into working against their will\*. It ties together previous items of legislation and also introduces new penalties relating to vehicle confiscation for human trafficking offences. In addition, it is also designed to encourage companies to take preventative, due diligence measures to combat any potential slavery or forced labour in their own domestic and international supply chains. This last aspect is laid out under Article 54 in part 6 of the Act.

## What are the offences and the penalties under the Act?

Any individual may be liable under the Act and it is important to be aware of what the potential offences and their serious penalties are:



\*The definition of slavery, servitude and forced or compulsory labour is taken from article 4 of the [European Convention on Human Rights](#).



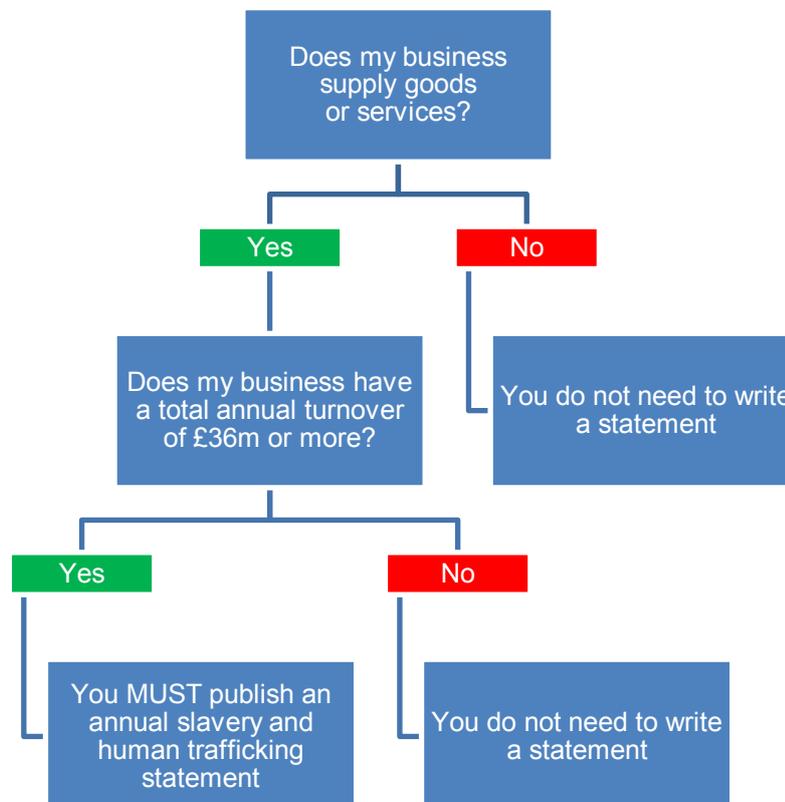
In addition:

- Individuals convicted of such offences may also be issued with a reparation order requiring them to pay compensation to their victim(s).
- Any vehicles suspected of being used in relation to human trafficking offences including cars, vans, aircraft, boats and ships may be seized by the authorities.

Companies should take great care in running rigorous background checks into their employee’s circumstances to ensure they have not been victims of trafficking. This is particularly relevant to non-UK, service and industrial workers e.g. cleaners, labourers etc. who may be more at risk.

## What is Article 54 and do I need to write a statement?

Article 54 of the Modern Slavery Act is entitled ‘*Transparency in Supply Chains etc*’. This deals with addressing how large businesses can go about tackling slavery and exploitation that may occur in any part of their business, national and international supply chains. Whilst it does not explicitly lay out the methods for doing this, it does encourage businesses to review their own safeguards and certain businesses to report this.





In addition, it is important to note that although some companies will not be obliged to produce an annual statement, it is advisable that ALL companies begin to examine the topics covered in the statement within their own operations. This will massively help reduce the commercial and reputational risk of your supply chains being found to contain examples of slavery. This may occur either through negligence in examining your own operations and supply chains or simply through accidentally overlooking a risk.

## What should the statement include?

The Act encourages organisations to discuss in their statement what measures they have taken to ensure their business is compliant with the Act. Guidelines are laid out recommending how to complete the statement and topics it may discuss include:

- “(a) the organisation’s structure, its business and its supply chains;*
- (b) its policies in relation to slavery and human trafficking;*
- (c) its due diligence processes in relation to slavery and human trafficking in its business and supply chains;*
- (d) the parts of its business and supply chains where there is a risk of slavery and human trafficking taking place, and the steps it has taken to assess and manage that risk;*
- (e) its effectiveness in ensuring that slavery and human trafficking is not taking place in its business or supply chains, measured against such performance indicators as it considers appropriate;*
- (f) the training about slavery and human trafficking available to its staff.”<sup>†</sup>*

Although these requirements are only advisory and companies may choose to publish a statement demonstrating they have taken no measures to prevent these offences, this may be seen as unwise.

Annex E of the [Guidance document](#) contains information and case studies with examples of the type of policies and due diligence processes companies can implement as per topic b, c and d above.

## When do I need to publish my first statement?

The timeline for publishing your first statement follows the guidance below, which relates to your company’s financial year end:



<sup>†</sup> Article 54 (5)



## What do I need to do with my statement?

A key requirement of the statement is that:

- It must be approved by the board of directors (or equivalent) and signed by a director.
- If the company is an LLP, it must be approved by the members and signed by a member.
- If it is a partnership, it must be signed by a partner.

It must also be published on the company website, if it has one, with a very clear link to it on the homepage.

## What if I fail to produce a statement?

It is possible for the Home Secretary to issue an injunction forcing a company to complete a statement; however it is highly advisable to complete one prior to any enforcement being used. Completing a statement will greatly enhance your organisation's image, reputation and standing with Human Rights monitoring organisations etc. Corporate social responsibility (CSR) is becoming increasingly important in the national and global marketplace and transparency in procedures is a key aspect of this.

## How does this affect me as a timber Importer/Trader?

Since the supply chains of timber importing and trading businesses are long and complex, there are numerous points at which they may unknowingly fall foul of this law.

Timber supply chains often have significant overseas elements and so it is vital to closer examine the likelihood and prevalence of slavery occurring within your supply chain in particular countries. A useful tool to begin your analysis is by examining the [Global Slavery Index](#) rating of that country. The website also contains [tools](#) for examining the slavery issues on country/region specific basis. Depending on the level of risk within an individual supply chain, a company should take appropriate measures to try to mitigate the risk of forced labour being utilised within it.

There are also numerous ways in which timber importing/trading companies can demonstrate their attempts to reduce this risk and demonstrate increased compliance with the MSA. These include through certification and the use of a Due Diligence System such as the Responsible Purchasing Policy (RPP):

- Chain of Custody (CoC) certification schemes such as FSC and PEFC already contain strict requirements upon the prohibition of forced labour within any accredited organisations. Both of these schemes refer to the 1998 International



Labour Organisation (ILO) [Fundamental Principles and Rights at Work](#) declaration which gives detailed guidance on labour rights.

- For companies lacking CoC certification, the TTF's Responsible Purchasing Policy (RPP) has in place requirements prohibiting the use of compulsory or forced labour and requiring the adherence to national labour laws as defined under the EUTR.
- The RPP Guide, under '*Appendix 1: Details of applicable legislation*', refers to the need to mitigate against the risk of not adhering to relevant employment laws in countries of harvest. It specifically refers to the observance of 'legislation against forced and compulsory labour'.
- The FLEGT licensing system will bring greater reassurance that labour laws have been respected in the timber harvesting and processing supply chain of VPA countries.

Both the due diligence mechanism established by these schemes and the independent third party auditing that goes with them can help to demonstrate a degree of compliance with the MSA and can be used as evidence in any annual statements, if applicable.

## Agency Workers

Timber importers/traders may also have to be aware of the potential risks inherent in hiring contracted agency workers e.g. warehouse workers, drivers, cleaners etc. Numerous legal loopholes often enable employment agencies to treat agency workers less equally than permanent staff in ways that may breach the Act. Since the mistreatment of agency staff may occur through the agency rather than the company contracting out to the agency, these abuses may be harder to detect. Therefore there is an increased need to establish greater due diligence mechanisms which may help identify and mitigate against such risks when scouting out employment agencies for potential partnerships.

## What if we are an overseas registered company with operations in the UK OR the UK subsidiary of an overseas parent company OR are a UK parent company with overseas subsidiaries/operations?

The [Guidance document](#) produced to accompany the MSA contains detailed information on the above question in section 3 'Who is required to comply?'. The TTF highly recommends that all members obliged to produce an annual statement read this document thoroughly.

It notes the fact that total annual turnover is calculated as including the turnover of any overseas subsidiaries. It also notes the following: *'If a foreign subsidiary is part of the parent company's supply chain or own business, the parent company's statement should cover any actions taken in relation to that subsidiary to prevent modern slavery. Where a foreign parent is carrying on a business or part of a business in the UK, it will be required to produce a*



*statement*.<sup>‡</sup> Production of the annual statement however is still subject to the foreign parent company meeting the original £36 million annual threshold.

This document also contains examples of company group structures with abroad subsidiaries to help clarify which companies, in complex structures, are obliged to produce an annual statement.

## Are there any recent changes to the Act?

An amendment bill has been proposed this year relating to Article 54 and is currently being reviewed in the House of Commons (as of 16<sup>th</sup> January 2017).

The changes proposed are:

- To compel organisations who must produce annual statements to publish the statement not just on their website but also in their annual reports and accounts.
- Extend the requirements for publishing an annual statement to public bodies.

These changes have not yet been established in law and therefore companies are not, as of yet, required to adhere to them.

The progress of this bill can be tracked [here](#).

## Can I get help in completing my statement?

The Home Office has also published a useful guide to Article 54 which provides a detailed overview of why and how businesses should go about producing their statements. It also provides advice on what measures can be taken if an incidence of modern slavery is uncovered in your supply chain. The guide can be found [here](#).

For further advice as highlighted in the guide in the above link, The Organisation for Economic Co-operation and Development (OECD) has produced detailed guidance for Multi-National Enterprises (MNEs) on responsible business conduct. This can be found [here](#).

In addition, a new multi-stakeholder initiative, [Stronger Together](#), has also been set up to provide businesses with a free, downloadable best practise toolkit to help support their efforts in tackling modern slavery.

If you have any queries please contact Owen Walton, TTF Communications and Research Executive, at [owalton@tff.co.uk](mailto:owalton@tff.co.uk) or 0207 291 5375.

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<sup>‡</sup> Section 3.11 of guidance document.



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January 2017