

**Annexure A: Model amendment
proposed by Human Rights Law
Centre**

**Modern Slavery Amendment (Duty to
Prevent Modern Slavery) Bill 2022**

No. , 2022

**A Bill for an Act to require some entities to prevent
modern slavery in their operations and supply
chains, and for related purposes**

A Bill for an Act to require some entities to prevent modern slavery in their operations and supply chains, and for related purposes

The Parliament of Australia enacts:

Part 1—Preliminary

1 Short title

This Act is the *Modern Slavery Amendment (Duty to Prevent Modern Slavery) Act 2022*.

Schedule 1—Amendments

Modern Slavery Act 2018 (Cth)

1 Section 4

After the definition of “*carries on business in Australia*”, insert:

“*civil penalty provision*” has the same meaning as in the Regulatory Powers Act.

“*Commissioner*” means the Anti-Slavery Commissioner.

After the definition of “*control*”, insert:

“*Court*” means:

- (a) the Federal Court of Australia;
- (b) the Federal Circuit and Family Court of Australia (Division 2).

7 After section 20

Insert:

Part 3A—Duty to prevent modern slavery

20A Duty to develop and implement human rights due diligence procedures

- (1) Every reporting entity must develop, implement, document and monitor the implementation of, due diligence procedures that enable the reporting entity to:
 - (a) identify and assess the risks of modern slavery practices in the operations and supply chains of the reporting entity, and any entities that the reporting entity owns or controls;
 - (b) take action to mitigate those risks;
 - (c) identify, and be notified of, modern slavery practices in the operations and supply chains of the reporting entity, and any entities that the reporting entity owns or controls; and
 - (d) take action to address those modern slavery practices, including any remediation processes.

Civil penalty: ##

- (2) If a reporting entity is covered by a joint modern slavery statement under section 14, the reporting entity may comply with subsection (1) in co-operation with other reporting entities that are covered by that joint modern slavery statement.
- (3) A Court may order a reporting entity to pay to the Commonwealth a pecuniary penalty in relation to the contravention of subsection (1) and may make such other orders in relation to the contravention as it thinks fit.
- (4) The Commissioner may commence a proceeding seeking orders under subsection (3) within 6 years of the alleged contravention.

Note: The term 'Commissioner' is used throughout, however enforcement could also be carried out by an authority housed in a government department or agency, such as the Attorney-General's Department.

20B Duty to prevent modern slavery

- (1) A reporting entity contravenes this subsection if modern slavery practices occur in the operations or supply chains of the reporting entity, or any entities that the reporting entity owns or controls.

Civil penalty: ##

- (2) A Court may order a reporting entity to pay to the Commonwealth a pecuniary penalty in relation to the contravention of subsection (1) and may make such other orders in relation to the contravention as it thinks fit.
- (3) A Court may order a reporting entity to pay compensation to a person who suffers loss or damage because of a contravention of subsection (1) and may make such other orders in relation to the contravention as it thinks fit.
- (4) The Commissioner may commence a proceeding seeking orders under subsection (2) or subsection (3), or under both subsection (2) and subsection (3), within 6 years of the alleged contravention.
- (5) A person who suffers loss or damage because of a contravention of subsection (1) may commence a proceeding seeking orders under subsection (3) within 6 years of the alleged contravention.
- (6) A person claiming to have a cause of action under subsection (5) may apply to the Court for an extension of the limitation period in subsection (5) and the Court may, if it decides that it is just and reasonable to do so, order the extension of the period of limitation applicable to the cause of action for such period as the court determines.
- (7) In the case of a reporting entity that is an unincorporated body, an order under subsection (2) or subsection (3) may be made, and a proceeding under subsection (4) or subsection (5) may be commenced, against any responsible member of the reporting entity.
- (8) In a proceeding under subsection (4) or subsection (5), it is a defence if the reporting entity or responsible member (as the case may be) proves that the reporting entity exercised all reasonable steps to avoid the contravention in respect of which the proceeding was instituted.

[Option:

- (9) In determining whether a reporting entity exercised all reasonable steps for the purpose of subsection (8), the Court may have regard to: ##

Note: *This section could include a list of factors that may be taken into account (to be developed through further consultation).]*