

# CORONAVIRUS INFORMATION & UPDATES

May 5, 2020

## Regulators Issue Modern Slavery Reporting Guidance Relating to COVID-19

The United Kingdom and Australia both recently issued modern slavery reporting guidance relating to COVID-19. U.S.-based and other multinationals should consider this guidance in connection with the preparation of their next modern slavery statement. The Australian COVID-19 reporting guidance is especially helpful for thinking about statement content. Even those companies that only publish a statement under the California Transparency in Supply Chains Act and/or U.K. Modern Slavery Act should consider the Australian guidance, given the significant overlap in statement content requirements and other guidance across the three acts.

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*In addition, in light of the COVID-19 pandemic, both the United Kingdom and Australia have under certain circumstances extended the publication date for statements under their respective Modern Slavery Acts.*

The foregoing developments are discussed in more detail in this Alert.

### U.K. Modern Slavery Act

On April 20, the U.K. Home Office published guidance for businesses on addressing and reporting on modern slavery risks during the COVID-19 pandemic.

#### *Statement Content*

Not surprisingly, the guidance indicates that businesses still will need to report on the actions they have taken to address modern slavery during the COVID-19 pandemic. However, the Home Office guidance recognizes that work to address new or increased risks may take precedence over previously planned activities and may mean that businesses are not able to meet the goals set in earlier modern slavery statements. With this in mind, the guidance indicates that businesses should use their next statement to demonstrate how they monitored their risks during this period and adapted their activities and priorities in response.

For more information on the entities required to publish a statement under the U.K. Modern Slavery Act and statement content and other requirements, see some of our earlier alerts, white papers, articles and webinars listed [here](#).

#### *Publication Date*

The Home Office acknowledges that the challenges presented by COVID-19 may mean that some businesses will not be able to publish their modern slavery statement within the usual timeframe, including due to reduced staff capacity. The guidance indicates that businesses that need to delay the publication of their modern slavery statement by up to six months due to COVID-19-related pressures will not be penalized. The reason for the delay should be indicated in the statement.

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Keep in mind that there is not a fixed date by which a reporting entity must publish its U.K. modern slavery statement on its website. In prior guidance, the U.K. Home Office has, however, indicated that subject entities should in the ordinary course publish their statement as soon as possible after their fiscal year end and that they are expected to do so, at most, within six months after the fiscal year end.

Although there is no fixed due date by which statements must be published, over time, the U.K. Home Office has taken steps to increase pressure on companies to timely report. For a discussion of some of these initiatives, see our earlier Alert [here](#).

## Australian Commonwealth Modern Slavery Act

The Commonwealth Modern Slavery Act (MSA) took effect on January 1, 2019. Many multinationals are gearing up for their first report under that Act. For a discussion of the requirements of the Commonwealth MSA, see our earlier Alerts [here](#), [here](#) and [here](#).

### *Statement Content*

On April 21, the Australian Border Force (ABF) published an information sheet that, among other things, explains how reporting entities can address the impact of COVID-19 in their modern slavery statements under the Commonwealth MSA.

In its information sheet, the ABF acknowledges that, due to the impact of COVID-19, some reporting entities may be unable to provide detailed responses to some of the mandatory disclosure criteria in their upcoming modern slavery statement. The reporting entity may be unable to undertake planned activities to address modern slavery risks, have limited capacity to prepare a statement (including due to staffing changes) or have experienced significant changes to its supply chains. Some reporting entities impacted by COVID-19 also may be temporarily delayed in implementing key actions to combat modern slavery, such as face-to-face training and supplier engagement activities.

In light of the foregoing, in the information sheet, the ABF encourages reporting entities affected by COVID-19 to clearly explain in their modern slavery statement how COVID-19 has impacted their capacity to assess and address modern slavery risks during their reporting period. In addition, the ABF encourages reporting entities that experienced delays in implementing key actions to combat modern slavery to include information in their modern slavery statement about relevant activities implemented or resumed between the end of their reporting period and the deadline for submitting their statement.

The information sheet also includes a hypothetical case study that discusses how a reporting entity impacted by COVID-19 may choose to explain the foregoing impacts in its modern slavery statement. Disclosure considerations noted in the hypothetical case study include the following:

- How the reporting entity's structure, operations and supply chains have been impacted by COVID-19. This may include (1) how the reporting entity has restructured its supply chains to ensure ongoing supply of key raw materials, (2) parts of its operations that have been reduced or shut down due to COVID-19 and (3) new supply chains, such as to source protective equipment for its workers.

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- The effect of COVID-19 on the ability to identify modern slavery risk areas, including due to widespread changes to its suppliers as a result of COVID-19.
- Changes in the reporting entity's modern slavery risk profile due to the economic and social impacts of COVID-19.
- Actions that are part of the reporting entity's modern slavery risk mitigation program that it has been unable to fully implement due to COVID-19, such as planned audit programs and face-to-face staff training, and the reporting entity's plans in respect of these activities.
- Temporary changes to compliance programs due to COVID-19, such as making key modern slavery training accessible online and continuing to engage with selected high-risk suppliers where feasible.
- Work undertaken to assess and better understand increased modern slavery risks due to COVID-19. For example, this may include reviewing new resources about heightened risks, consulting with business peers, multi-stakeholder groups, investors and workers and updating risk assessments.
- Changes in prioritizing modern slavery risks, including new risks created by COVID-19. Examples of items to discuss in the statement might include (1) actions to mitigate the impact of COVID-19 on workers, including redeploying of factory workers, and (2) how the reporting entity engaged with key suppliers to address increased modern slavery risks linked to COVID-19 for workers in its supply chains, such as by adding a question about COVID-19 to its supplier questionnaire and asking its supplier due diligence team to consider COVID-19-related risks in supplier assessments.
- Changes in steps taken by the reporting entity during the reporting period to assess the effectiveness of its actions to address modern slavery. For example, if, due to the impacts of COVID-19, the reporting entity's internal working group met less frequently than planned or if the reporting entity was unable to collect complete data for some key metrics to assess the effectiveness of its compliance program.
- Delays in key actions the reporting entity planned to implement during its reporting period but, due to COVID-19, were implemented after the end of the reporting period.
- Information about the reporting entity's engagement with business peers on COVID-19 and modern slavery, such as participation in a COVID-19 peer group established by an industry body.

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## *Due Date*

As earlier noted, the Commonwealth MSA took effect on January 1, 2019. Reporting starts with the first fiscal year after the Commonwealth MSA took effect. Since reporting is fiscal year-based, reporting entities' initial statements will be due between roughly the next two and fourteen months. However, to support reporting entities impacted by the COVID-19 pandemic to meet their obligations under the Commonwealth MSA, the Australian Government has extended the statement due date by an additional three months for all entities whose reporting period ends on or before June 30, 2020. The table below illustrates the new reporting deadlines for entities with the fiscal years specified in the table.

Reporting Period	Original Statement Deadline	New Deadline
April 1, 2019 to March 31, 2020 (foreign financial year)	September 30, 2020	December 31, 2020
July 1, 2019 to June 30, 2020 (Australian financial year)	December 31, 2020	March 31, 2021
Reporting periods ending after June 30, 2020	No change; statement due six months after fiscal year end	

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For further information on the practice, click [here](#).

Please click [here](#) to visit our CSR and Supply Chain Compliance website.

## COVID-19 Resource Center

Ropes & Gray has launched a [COVID-19](#) online hub for resources related to the outbreak. Please visit this site frequently for up-to-date insights on legal considerations in connection to the coronavirus, business continuity best practices, and maintaining the health and safety of your people. To receive a notification whenever a new resource is added to our coronavirus resources center, sign up for our new [COVID-19 distribution list](#). Questions about re-opening? Email our team: [COVID-19RecoveryPolicies@ropesgray.com](mailto:COVID-19RecoveryPolicies@ropesgray.com).