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## Proposed Amendments to the UK Modern Slavery Act Introduced in Parliament

On June 15, a Modern Slavery (Amendment) Bill was tabled in the House of Lords. The Bill proposes additional disclosure and substantive compliance requirements and would establish penalties for non-compliance with selected aspects of the Act. In this Alert, we discuss the Bill in more detail.

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### Background and Context

In September 2020, the UK Government announced a package of new measures that would strengthen the transparency provisions of the Modern Slavery Act. See our earlier Alert on that announcement [here](#).

The package was the Government's response to both a public consultation launched in July 2019 and an Independent Review commissioned by the Home Office in 2018 to assess the effectiveness of the Act. The public consultation had sought views from businesses, public bodies, investors, and civil society on a range of options to strengthen the Act's transparency requirements.

The Government's response package accepted several of the recommendations of the Independent Review and committed to making key changes to the Act, including the following:

- Mandating the specific reporting topics that statements must cover.
- Requiring statements be published on a new Government-run modern slavery statement registry.  
  
The registry was launched in March. It currently is voluntary to post statements on the registry. However, posting is encouraged by the UK Home Office.
- Setting a single reporting deadline for statements.
- Introducing financial penalties for subject commercial organisations that fail to meet their obligations under the Act's transparency provisions.

The Government's message at the time was clear: "It's not enough for government and businesses to simply say they don't tolerate modern slavery. As we take stock of both the challenges faced and achievements made, we must match our words with actions." The Government indicated that, when Parliamentary time permitted, the Government would enact the primary legislation to bring these measures into force.

More recently, during his January 12 statement to the House of Commons in response to human rights violations in Xinjiang, China, the Foreign Secretary (Dominic Raab) explained that the Government also intends to introduce financial penalties for companies that fail to comply with their transparency obligations under the Act, when Parliamentary time allows. That statement, which coincided with announcements by both the U.S. and Canadian governments, is discussed in our earlier Alert [here](#).

The Government has caveated many legislative proposals with "when Parliamentary time allows" since the start of the COVID-19 pandemic, so the full package of measures to strengthen the Act may take time to materialize. In the interim, however, on June 15, the Modern Slavery (Amendment) Bill was introduced to the House of Lords as a private member's bill, sponsored by independent crossbench peer Lord Alton of Liverpool.

## What Would the Bill Change?

The Bill proposes the following key changes to the Act:

### *New Criminal Offence for False Information in Modern Slavery Statements*

The Bill would amend the Act by making it an offence to supply a false modern slavery and human trafficking statement.

In a new section 54ZA to the Act, a person who is responsible for a modern slavery statement would commit an offence if information in the statement is false or incomplete in a material particular, and the person either knows this or is reckless as to whether the statement is false or incomplete.

As proposed in the Bill, a person would be responsible for a statement if they are a director (for a corporation), partner (for a partnership) or member (for a limited liability partnership).

If adopted, this section would put additional pressure on verifying the accuracy of modern slavery statements published under the Act. Similar provisions are included in the New South Wales Modern Slavery Act and proposed Canadian modern slavery legislation, discussed in our earlier Alerts [here](#) and [here](#).

There would be a defence if the responsible person can show they took all reasonable steps to ensure that the statement was corrected, and they informed the Independent Anti-slavery Commissioner as soon as practicable after becoming aware that the statement contained information that was false or incomplete in a material particular.

### *New Civil Offence for Continuing to Source from Suppliers After a Formal Warning*

A new section 54ZB to the Act would make it an offence for a subject company to continue to source from a supplier or sub-supplier that fails to demonstrate a minimum standard of transparency after having been issued a formal warning by the Independent Anti-slavery Commissioner. This is a new power that would be conferred on the Commissioner under proposed section 41(3)(g) to the Act.

### *Liability for Violations*

A criticism of the current Act is that it does not provide for adequate penalties to deter non-compliance. The Bill seeks to address this perceived weakness.

A person found guilty of an offence under section 54ZA could, on conviction on indictment, be imprisoned for up to two years and subject to a fine amounting to 4% of global turnover of the subject commercial organisation, up to a maximum of £20 million. A summary conviction could result in imprisonment for as much as 12 months and a fine, up to the statutory maximum in Scotland and Northern Ireland.

A person found guilty of an offence under section 54ZB could, on conviction on indictment, be fined up to 4% of global turnover of the subject commercial organisation, up to a maximum of £20 million. On summary conviction, they could be subject to a fine, up to the statutory maximum in Scotland and Northern Ireland.

### *Additional Disclosure and Compliance Program Requirements*

A new section 41(5A) to the Act would introduce three new transparency requirements. These requirements go beyond disclosure and also would require enhancements to many companies' modern slavery compliance programs. Under this part of the Bill, a subject company would be required to:

- publish and verify information about the country of origin of sourcing inputs in its supply chain;
- arrange for credible external inspections, external audits, and unannounced external spot-checks; and
- report on the use of employment agents acting on behalf of an overseas government.

### Next Steps for the Bill

The Bill will need to make its way through both Houses of Parliament (Lords and Commons). It may well be revised and changed as it progresses, as has been the case with modern slavery and mandatory human rights due diligence legislation in most jurisdictions.

The Bill also may fall casualty to parliamentary constraints. It is relatively uncommon for private members' bills to progress successfully through both Houses, by virtue of the limited amount of parliamentary time afforded to them and failing to achieve cross-party support.

### Other Recent Action – the UK Government's Response to BEIS' Forced Labor Recommendations

On March 17, the House of Commons' Business, Energy and Industrial Strategy Committee published its Fifth Report of Session 2019–21, titled "Uyghur forced labour in Xinjiang and UK Value chains." As part of its inquiry underlying the report, the Committee invited 15 companies in the fashion, retail and information technology sectors – many of which are U.S.-based – to provide written and oral evidence relevant to the inquiry.

Specific to the Act, the Committee recommended that:

- Companies operating in Xinjiang be required to prove they are not in breach of the Act.
- The Government strengthen supply chain transparency obligations for companies and introduce tough fines for non-compliance in line with other price/earnings to growth responsibilities for companies.
- The Government enhance the transparency and accessibility of modern slavery statements and develop options for civil penalties for non-compliance. The recommendations noted that these proposals should include a commitment to creating a publicly accessible digital depository on the Government's website containing annual modern slavery statements.

The Government partially accepted the Committee's recommendations. In its response, the Government noted its September 2020 and January 2021 announcements relating to enhancements to the Act, which are discussed earlier in this Alert.

In the response, the Government indicated that further details on the size of penalties for non-compliance and how they will be administered will be announced in due course. The response also reiterated that the Government is committed to amending the Act as soon as parliamentary time allows. The response also noted the March 2021 launch of the online modern slavery statement registry.

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