

25 August 2025

www.alhr.org.au

Australian Government
Attorney General's Department

Via website: <https://consultations.ag.gov.au/crime/modern-slavery-act/consultation/>

Dear Secretariat,

Strengthening the Modern Slavery Act

Australian Lawyers for Human Rights (**ALHR**) is grateful for the opportunity to make this submission to the consultation on the options to strengthen the transparency framework, simplify and improve reporting, and target non-compliance with the *Modern Slavery Act 2018* (Cth).

1. Acknowledgement

ALHR acknowledges the traditional owners and custodians of the lands, rivers and seas on which we work, live and travel across Australia as the first people of this country. We recognise that the land belonging to these peoples was never ceded. We pay our deep respect to Elders past and present. We recognise First Nations peoples' cultural authority and rights to self-determination. We also recognise that when First Nations people and communities receive the respect and support they deserve, they have a proud history of designing and implementing robust, holistic and culturally safe Aboriginal and Torres Strait Islander led solutions.

2. About Australian Lawyers for Human Rights

ALHR was established in 1993 and is a national association of Australian solicitors, barristers, academics, judicial officers and law students who practise and promote international human rights law in Australia. ALHR has active and engaged National, State and Territory committees and specialist thematic committees.

ALHR seeks to utilise its extensive experience and expertise in the principles and practice of international law and human rights law in Australia to:

- promote Federal and State laws across Australia that comply with the principles of international human rights law;
- engage with the United Nations in relation to Australian human rights violations;
- promote and support lawyers' practice of human rights law in Australia; and
- engage internationally to promote human rights and the rule of law.

Through advocacy, media engagement, education, networking, research and training, ALHR promotes, practices and protects universally accepted standards of human rights throughout Australia and overseas.

3. Introduction

This submission addresses the 37 questions of the consultation and presents below a summary of the key points and **recommendations** for the considered options. It is intended to be read alongside the main body of the submission, providing a concise record of ALHR's position and rationale for the proposed reforms. The format follows the structure of the consultation questionnaire to ensure clarity, comparability and ease of reference.

4. Part A – Mandatory reporting criteria (Questions 1 -11)

ALHR supports the proposed expansion and clarification of the *Modern Slavery Act 2018* (Act)'s mandatory reporting criteria, noting that more prescriptive requirements will improve the quality, comparability and enforceability of statements. The proposed changes should expressly include reporting on grievance mechanisms, remediation actions, progress since the last reporting period, and technology governance, as these will significantly enhance accountability and transparency. **However, these should be situated within a broader requirement for entities to undertake and disclose comprehensive human rights due diligence (HRDD), consistent with the UN Guiding Principles on Business and Human Rights (UNGPs).** In this context, we are concerned that the current consultation process, structured in separate streams for amendments to strengthen the transparency framework, simplify and improve reporting, and target non-compliance (Stream A) and for declarations of high-risk matters and integrating HRDD obligations (Stream B), risks creating a fragmented framework, potentially undermining the effectiveness and coherence of the reforms.

We support the use of delegated legislation to allow flexibility in responding to emerging practices and risks, provided that such delegated instruments are developed transparently and with robust consultation with stakeholders, in particular affected individuals and communities. Clear statutory guidance should accompany the criteria, setting out practical examples, minimum content expectations, and indicators of effective action, including the design and implementation of grievance mechanisms, worker engagement, and protection of vulnerable or marginalised groups.

ALHR emphasises that reporting on grievance mechanisms is essential, not only in terms of their existence but also their accessibility, coverage across operations and supply/value chains, awareness among workers and measurable outcomes. Entities should disclose information such as the number and nature of complaints received, the timeliness and effectiveness of resolution, and steps taken to prevent retaliation. Safeguards must be in place to ensure privacy and confidentiality, particularly in sensitive or high-risk cases, through anonymisation and consultation with affected parties before disclosure.

Similarly, we recommend that remediation should be a standalone reporting criterion. Entities should be required to detail the nature of remedies provided, the parties responsible for implementation, the timeframes involved, and any follow-up monitoring to ensure the sustainability of outcomes. In cases where public disclosure may place affected individuals, communities or investigations at risk, information should be presented in a de-identified form and with a clear explanation of why certain details cannot be disclosed.

In line with our previous advocacy in this area, and consistent with the UNGPs and recognised international good practice, the Act should be further amended to ensure that victims of modern slavery have access to an independent and impartial grievance mechanism, as workers should not need to rely exclusively on voluntary remediation processes offered by businesses. The Act should be amended to establish a specific statutory cause of action enabling workers subjected to modern slavery to seek redress in the form of compensation and other forms of support. To facilitate effective remediation, we **continue to call for the establishment of a national**

compensation fund to provide an appropriate remedy to individuals subjected to exploitation through Australian companies' operations and supply/value chains.¹

ALHR acknowledges the significant role played by emerging technologies—including artificial intelligence (AI), biometric systems, satellite imagery and blockchain—in identifying modern slavery risks, mapping exploitative supply chains, and enhancing transparency in high-risk sectors.² As noted by the UN Working Group on Business and Human Rights (UNWG BHR), such tools offer potential to detect vulnerabilities, target remediation and foster prevention through improved due diligence and oversight.³ However, technology is not a panacea. Companies and governments must ensure that AI and related tools are deployed with robust HRDD throughout the design, procurement and implementation lifecycle. This includes conducting anticipatory impact assessments, ensuring transparency, safeguarding privacy and maintaining avenues for effective remedy if harm arises. We, therefore, **recommend that legislative reform underpinning the Act should incorporate mandatory disclosure of AI and digital tools used in modern slavery risk detection and supply/value chain management, including technical limitations, data sources and mitigation strategies.** Technology governance requirements should be explicitly aligned with human rights principles, drawing on the UNGPs,⁴ OECD AI Principles,⁵ and other relevant international standards.

5. Part B – Compliance and enforcement framework (Questions 12 – 24)

ALHR **strongly supports the strengthening of the compliance and enforcement framework under the Act.** While education and guidance have been valuable in the Act's early years, persistent non-compliance by a significant number of reporting entities demonstrates that a purely voluntary approach is insufficient.⁶ The regulator's existing powers to request remedial action and publish information on non-compliance have not been used to date, and without stronger measures, there is little incentive for poor-performing entities to improve.

We also **support the introduction of additional regulatory tools, such as infringement notices, enforceable undertakings, and civil penalties,** which would bring the Act in line with comparable regimes internationally⁷ and send a clear signal that non-compliance is unacceptable. Civil penalties should apply to failures to submit a statement, failures to comply with a request for remedial action, and the provision of false or misleading information. We also

¹ The benefits and urgency of such a scheme have already been raised within the Australian context. See, e.g., Report of the Special Rapporteur on contemporary forms of slavery including its causes and consequences, Tomoya Obokata (Australia), A/HRC/60/28/Add.1 (16 July 2025); Anti-Slavery Australia, 'Justice for All: Establishing a National Compensation Scheme for Survivors of Modern Slavery' (7 July 2022) <https://antislavery.org.au/justice-for-all/>.

² For example, World Economic Forum, 'How AI and satellite imaging can stamp out modern slavery' (22 Jan 2020), <https://www.weforum.org/stories/2020/01/how-ai-and-satellite-imaging-tech-can-put-an-end-to-modern-slavery/>; OnGeo Intelligence, 'Fighting modern slavery from space: How satellite data is shaping a new era of human rights protection' (29 November 2024) <https://ongeo-intelligence.com/blog/fighting-modern-slavery-satellite-data>.

³ UN Working Group on BHR, 'Artificial intelligence procurement and deployment: ensuring alignment with the Guiding Principles on Business and Human Rights', A/HRC/59/53 (14 May 2025), <https://docs.un.org/en/A/HRC/59/53>.

⁴ OHCHR (2011) 'Guiding Principles on Business and Human Rights : Implementing the United Nations "Protect, Respect and Remedy" Framework', <https://www.ohchr.org/en/publications/reference-publications/guiding-principles-business-and-human-rights>.

⁵ OECD AI Principles (2019) <https://www.oecd.org/en/topics/sub-issues/ai-principles.html>.

⁶ For example, Walk Free 'Modern slavery laws in the UK and Australia are failing and need urgent reform' (3 April 2025) https://www.walkfree.org/news/2025/modern-slavery-laws-in-the-uk-and-australia-are-failing-and-need-urgent-reform/?utm_source=chatgpt.com; BHRRC et al. (2022) 'Broken Promises: Two years of corporate reporting under Australia's Modern Slavery Act', https://media.business-humanrights.org/media/documents/BrokenPromises_Aus_MSA_FINAL.pdf; HRLC et al. (2022) 'Paper Promises? Evaluating the early impact of Australia's Modern Slavery Act', <https://www.humanrights.unsw.edu.au/sites/default/files/documents/Paper%20Promises%20report.pdf>;

⁷ Please see our responses to the consultation questions for details.

recognise that appropriate defences, such as mistake of fact, should remain available to ensure procedural fairness. Penalty levels should be set at a level that deters non-compliance while remaining proportionate to the size and turnover of the entity, and consideration should be given to aggravated penalties for repeated or deliberate breaches.

ALHR stresses that the regulator must be resourced appropriately and empowered to use these tools effectively. This includes broader information-gathering powers to verify the accuracy of statements, secure relevant evidence, and identify false or misleading reporting. Access to corporate, financial, and supply-chain data, alongside sufficient funding for investigation and litigation, will be essential.

While the Anti-Slavery Commissioner (ASC)'s Office has strong advisory expertise, enforcement functions may be better placed with a specialised independent unit or body with a clear compliance mandate to avoid potential conflicts of interest. Given resource constraints, we **suggest a co-regulatory model as a potentially effective and cost-efficient solution.** In such a model, the ASC or the Australian Human Rights Commission (AHRC) could lead on guidance, stakeholder engagement and human rights-based oversight, ensuring alignment with the UNGPs, while enforcement (including investigation and penalties) could be undertaken by agencies with established statutory powers, such as the Australian Securities and Investments Commission (ASIC) for corporate entities and the Fair Work Ombudsman for labour-related breaches. This approach would leverage existing infrastructures, avoid duplication and reflect global good practice in regulatory design.

6. Part C – Joint reporting (Questions 25 – 30)

ALHR supports reforming to the joint reporting model to strengthen clarity, comparability, and accountability. While the current framework allows for consolidated reporting, it too often obscures the distinct risks and responses of individual entities within a corporate group. A corporate group reporting model could streamline compliance, but it must ensure safeguards to prevent the dilution of transparency, particularly for high-risk subsidiaries.

We submit that exemptions, such as for small subsidiaries or nominees, may be justified but should be tightly defined, granted only through regulatory approval, and subject to ongoing oversight. Consolidated statements must still clearly identify entity-specific risks and the tailored actions taken to address them, ensuring alignment with the UNGPs and international best practice.

Alternative approaches, such as enhanced cross-referencing and annexing of entity-specific detail to accompany consolidated statements, may also address current deficiencies without creating unnecessary duplication. We **recommend that any revised model must maintain subsidiary-level accountability and guard against the masking of non-compliance or poor practices within group reporting.**

7. Part D – Voluntary reporting (Questions 31 – 25)

ALHR recognises the voluntary reporting framework as an important mechanism for fostering transparency among entities below the turnover threshold and in promoting best practice beyond the minimum legal requirements. While administrative efficiency is important, the ability to monitor and engage with voluntary reporters must not be weakened.

We recommend that voluntary reporters be held to the same quality standards as mandatory reporters to maintain the credibility and integrity of the register. The regulator should have the power to revoke voluntary reporting status where statements are non-compliant, misleading, or undermine the Act's objectives, subject to procedural fairness safeguards.

We also **strongly support the provision of tailored guidance for small and medium-sized enterprises (SMEs)**. This should be practical, proportionate and sector-specific, addressing issues such as simplified risk assessment methodologies, examples of effective supplier engagement, and cost-effective grievance mechanisms. Guidance should be available in accessible formats, including online tools, templates and multilingual resources, to maximise uptake and improve outcomes across the voluntary reporting domain.

8. Part E – Notification requirements to cease as a reporting entity (Questions 36 – 37)

ALHR **supports strengthening the notification process for ceasing to be a reporting entity to improve regulatory oversight and prevent entities from prematurely or inappropriately removing themselves from reporting obligations**. Requiring notification within six months of the end of the relevant reporting period is reasonable, provided that this is accompanied by criteria to assess whether the entity has genuinely fallen below the reporting threshold.

Safeguards should be in place to ensure that entities cannot avoid reporting obligations by restructuring, altering corporate form, or shifting turnover between related entities. The regulator should have the power to require supporting evidence to substantiate cessation claims and to reject notifications that do not meet the statutory criteria.

9. Conclusion

ALHR is happy to provide any further information or clarification in relation to this submission.

If you would like to discuss any aspect of this submission, please email me at:
president@alhr.org.au

Yours faithfully,

Nicholas Stewart, President, ALHR

Contributor:

Dr Natalia Szablewska, Chair of Business and Human Rights Subcommittee

Any information provided in this submission is not intended to constitute legal advice, to be a comprehensive review of all developments in the law and practice, or to cover all aspects of the matters referred to. Readers should take their own legal advice before applying any information provided in this document to specific issues or situations.

PART A – Mandatory reporting criteria

The mandatory reporting criteria are set out in subsection 16(1) of the Modern Slavery Act and require a modern slavery statement to:

- a. identify the reporting entity
- b. describe the reporting entity's structure, operations and supply chains
- c. describe the risks of modern slavery practices in the reporting entity's operations and supply chains, and any entities that the reporting entity owns or controls
- d. describe the actions taken by the reporting entity and any entity that the reporting entity owns or controls, to assess and address those risks, including due diligence and remediation processes
- e. describe how the reporting entity assesses the effectiveness of these actions
- f. describe the process of consultation with any entities that the reporting entity owns or controls (a joint statement must also describe consultation with the entity giving the joint statement)
- g. provide any other relevant information.

The review acknowledged there was general agreement in consultations that the reporting criteria address fundamentally important elements of modern slavery risk management. The review recommended elements of the criteria be expanded, clarified and refined. The review also recommended consideration be given to moving the reporting criteria to delegated legislation (such as regulations or rules) to allow flexibility in revising the criteria over time.

The department is seeking views on the following proposed amended reporting criteria (*italics indicate a requirement that may be outlined in delegated legislation, such as rules*):

1. identify the reporting entity, and if applicable, the entities owned or controlled by the reporting entity
2. describe the entity's structure, operations and supply chains
3. describe the risks of modern slavery practices in the operations and supply chains of the entity, and its owned or controlled entities
4. describe the entity's (and if applicable, its owned or controlled entities') actions in relation to modern slavery risks, including due diligence. This includes:
 - a. actions taken to identify and assess risks of modern slavery practices
 - b. actions taken to address modern slavery risks
 - i. internal governance processes
 - ii. organisational policies
 - iii. training of staff
 - iv. engagement with internal and external stakeholders
 - c. actions to monitor the implementation and effectiveness of its actions undertaken in relation to 4(a) and 4(b)
5. provide information about the entity's (and if applicable, its owned or controlled entities') grievance mechanisms
6. provide information about the entity's (and if applicable, its owned or controlled entities') processes and actions to remediate modern slavery incidents

7. describe the process of consultation in the preparation of the statement with any entities the reporting entity owns or controls (and, in the case of a reporting entity covered by a joint statement, with the entity giving the statement)
8. include any other relevant information.

The aim of any changes is to increase clarity and simplicity in the reporting criteria as well as address feedback received by the review and the review's recommendations.

Further information on the proposed options to change the reporting criteria can be found in **Part A** of the consultation paper.

ALHR Responses

Consultation Question	Response	Expanded Response
1. Do you support the potential changes to the reporting criteria? Are any further changes needed to the reporting criteria?	Yes, I support the potential changes, with additional changes	<p>The proposed changes improve clarity and standardisation of risk-based reporting requirements, which is an important step towards increasing transparency across operations and supply/value chains.</p> <p>However, they remain insufficient as they continue to frame modern slavery reporting primarily as a compliance exercise rather than embedding it as part of a substantive human rights due diligence (HRDD) process. Additional changes are needed to align the process with the UN Guiding Principles on Business and Human Rights (UNGPs) and ensure that reporting drives meaningful prevention and remediation, not just disclosure.</p> <p>The mandatory criteria should explicitly require:</p> <ul style="list-style-type: none"> • disclosure of grievance cases and remediation actions taken • evidence of ongoing engagement with affected rightsholders • reporting on substantive progress since the previous statement to enhance accountability, and • technology governance aligned with human rights principles.

		<p>In relation to the last point, there should be an explicit reference to the use of technology, including AI-enabled tools, in risk identification, monitoring and reporting. Entities should be required to disclose not only whether they use such technologies to address modern slavery risks, but also how they manage and mitigate any human rights risks arising from their deployment. This aligns with the recommendations of the UN Working Group on Business and Human Rights on technology governance, and would help ensure that technology supports, rather than undermines, human rights outcomes.</p> <p>In relation to criterion 4(a) on the identification and assessment of risks of modern slavery risks, entities should be required to assess their involvement using the UNGPs' 'cause', 'contribute' or 'directly linked' continuum, which also informs their duty to provide a remedy. This approach would encourage proactive, self-driven risk assessment and align with the Government's expectation of 'continuous improvement' in compliance.</p> <p>While some of these elements may be addressed through supplementary guidance materials and delegated legislation, without their explicit inclusion in the mandatory criteria, there is a risk that reporting will continue to lack the depth needed to identify, prevent, mitigate and remediate actual and potential impacts on people, including through the responsible use of technology.</p> <p>We note that further consultation is anticipated under Stream B of Phase 1; however, separating amendments to mandatory criteria amendments from the integration of HRDD obligations may hinder the effectiveness of the proposed changes in practice.</p>
--	--	--

<p>2. Do you support the matters the department proposes to include in delegated legislation (such as rules)? If not, what changes are needed?</p> <p><i>Note: these matters are indicated by italics in the introduction above.</i></p>	<p>Yes, I support the matters the department proposes to include in delegated legislation, with changes</p>	<p>In principle, we support the use of delegated legislation for developing certain rules, provided it is developed transparently and in consultation with all relevant stakeholders, including affected rightsholders.</p> <p>However, expanding the suite of regulations, rules and guidance risks creating complexity and fragmentation, which reduces clarity and could, in turn, lower compliance. Any delegated legislation should therefore be drafted with precision, clearly linked to the Act's objectives, and accompanied by practical, accessible guidance to support consistent implementation.</p>
<p>3. Are there any challenges associated with including details about reporting criteria in delegated legislation? If so, what are they?</p>	<p>Yes</p>	<p>Potential risks include reduced parliamentary oversight and potential opacity in how reporting requirements are determined or amended (<i>please see also our response to Q1 above</i>).</p> <p>These risks can be mitigated through mandatory public consultation on draft rules and the use of transparent processes that ensure meaningful engagement with affected stakeholders, particularly rights-holders.</p>
<p>4. Should additional guidance be developed to assist reporting entities to comply with the proposed changes to the mandatory reporting criteria? If so, what topics should be addressed by new guidance?</p>	<p>Yes</p>	<p>Guidance should address:</p> <ul style="list-style-type: none"> • How to effectively enact a duty to prevent modern slavery • How to design and implement effective grievance mechanisms • Indicators for assessing successful remediation • How to engage with workers, affected communities and other stakeholders in safe and meaningful ways • How to protect vulnerable and marginalised groups, with a focus on addressing root causes of modern slavery, such as purchasing practices and supply chain management

		<ul style="list-style-type: none"> • How to respond effectively and appropriately when modern slavery is identified, including referral pathways and victim support measures.
5. Should a new criterion be added that requires entities to report on key actions or changes since their previous statement?	Yes	<p>Adding a criterion to report on key actions or changes since the previous statement would enhance accountability and enable tracking of progress over time.</p> <p>Reporting should cover:</p> <ul style="list-style-type: none"> • Specific actions taken to address identified risks • Improvements in HRDD systems • Changes to supplier engagement practices • Updates to grievance and remediation mechanisms, and • Measurable impacts achieved for workers and communities.
6. Should reporting entities be required to report information about grievance mechanisms? If so, what specific information about grievance mechanisms should entities be required to report on?	Yes	<p>Requirements should align with the UNGPs, which define effective grievance mechanisms as legitimate, accessible, predictable, equitable, transparent, rights-compatible, and a source of continuous learning.</p> <p>A one-size-fits-all model will not be effective across diverse sectors and contexts; multiple, tailored approaches may be necessary to ensure meaningful access and outcomes.</p> <p>In line with the good practice, entities should report on:</p> <ul style="list-style-type: none"> • coverage across operations and supply/value chains • methods of access • number and nature of complaints • timeliness of resolution

		<ul style="list-style-type: none"> • how outcomes and decisions were communicated to complainants, and • measures taken to prevent retaliation.
7. Are there any sensitivities with requiring an entity to report on grievance mechanisms? Please consider any sensitivities relating to quantitative or qualitative information about grievance mechanisms that might be captured.	Yes	<p>Sensitivities include privacy, confidentiality, and risk of retaliation against complainants.</p> <p>Entities must avoid revealing personal or identifiable information, but can still provide anonymised and aggregated data. Such reporting can meaningfully inform stakeholders about the nature of grievances and the effectiveness of the entity's response without compromising safety and privacy.</p>
8. Should reporting on remediation be a separate mandatory reporting criterion? If so, what specific information about remediation actions and processes should entities report on? Notably, the review explored requiring entities to report on the number of matters referred to law enforcement or other bodies, as well as to report on details of modern slavery incidents or actual risks.	Yes	<p>Remediation should be a separate criterion, in line with UNGPs' HRDD framework.</p> <p>Remediation must be culturally sensitive, context-specific and effectively engage with the affected individuals and communities.</p> <p>Entities should report:</p> <ul style="list-style-type: none"> • The type and scope of remediation provided • How affected stakeholders were involved in shaping the remedy • Responsible parties and accountability structures • Timelines for implementation, and • Monitoring and evaluation mechanisms to assess effectiveness.
9. Are there any sensitivities with requiring an entity to report on remediation, noting information about remediation may include quantitative or qualitative information	Yes	<p>Sensitivities may arise where disclosure risks reveal sensitive business information or identify affected individuals and communities. These risks can be mitigated through anonymisation, aggregation and careful drafting to prevent re-identification.</p>

		However, such sensitivities should not be used to justify the lack of transparency in, or public accessibility of, remediation practices.
10. Are there any specific safeguards we should consider to protect workers in relation to reporting on grievance mechanisms and remediation?	Yes	<p>There are a number of steps that might be taken to safeguard sensitive information when reporting on grievance mechanisms and remediation.</p> <p>Safeguards should include:</p> <ul style="list-style-type: none"> • Ensuring personal or identifiable information is never disclosed in public reporting • Obtaining informed consent from affected individuals before disclosure, where relevant • Guaranteeing easily accessible, anonymous, and free from intimidation grievance channels, including through independent third parties • Regularly reviewing the effectiveness of grievance and remediation processes • Ensuring that reporting does not jeopardise ongoing investigations or legal proceedings.
11. Do the proposed changes to the consultation criterion address the lack of clarity currently experienced by reporting entities?	Yes	<p>The proposed changes improve clarity; however, clarity alone is not sufficient.</p> <p>Stronger enforcement mechanisms, explicit accountability measures and alignment with international standards are necessary to ensure the consultation criterion leads to genuine stakeholder engagement rather than a procedural exercise.</p>

Part B – Compliance and enforcement framework

To enable an effective and proportionate response to instances of non-compliance, the department is seeking views on options for an enhanced compliance framework, including potential expanded or additional regulatory powers.

The table on pages 29-30 of the consultation paper provides an outline of a range of common regulatory powers and their potential or existing application to the Modern Slavery Act. These include powers to:

- gather information
- request for remedial action
- issue an infringement notice
- enter into an enforceable undertaking
- publish information
- redact information
- apply for a civil penalty order.

There are currently no penalties for non-compliance with the Modern Slavery Act. The review recommended that penalties be introduced for non-compliance with the Modern Slavery Act as outlined below:

- failure to submit a modern slavery statement
- providing false or misleading information
- failure to comply with a request for remedial action.

For further information on the options to enhance compliance refer to **Part B** of the consultation paper.

ALHR Responses

Consultation Question	Response	Expanded Response
12. To date, the regulator has not used its power to request remedial action or publish information regarding non-compliance, focusing instead on education. Would additional or enhanced guidance be	No	Guidance alone is insufficient (see also the example of UK, where a significant proportion of submissions fail to meet the basic reporting requirements despite extensive guidance). Without credible enforcement action, persistent non-compliance will remain. Education must be paired with active monitoring, proportionate penalties, and public accountability to create a meaningful deterrent.

sufficient to address current non-compliance?		
13. Will the use of these existing compliance powers be sufficient to address current non-compliance?	No	The current powers do not establish a legal obligation for entities to prevent or respond to modern slavery risks. Active enforcement and expanded powers, including HRDD obligations, are essential.
14. Should the existing compliance powers be amended? If so, how?	Yes	<p>Amendments should broaden the regulator's investigative scope and powers to compel evidence (see the regulatory powers of the German Federal Office for Economic Affairs and Export Control (BAFA) under the <i>Supply Chain Due Diligence Act</i> (LkSG) with powers to compel information, conduct inspections, receive complaints from third parties, and impose significant fines).</p> <p>Key improvements should include:</p> <ul style="list-style-type: none"> • Enforcement timelines and follow-up mechanisms to ensure prompt and complete remedial actions • Power to impose financial penalties or sanctions for non-compliance • Mandatory human rights due diligence (mHRDD) as a compliance standard • Third-party complaint mechanisms, enabling affected workers, unions and NGOs to initiate investigations or lodge complaints with the regulator • Mandatory public reporting on enforcement outcomes, consistent with transparency norms in other jurisdictions (e.g., UK, Canada).
15. Under section 16A of the Modern Slavery Act, the regulator can request an entity provide an explanation for the failure to comply with reporting requirements. Would broader information	Yes	A broader enforcement toolkit is needed to provide proportionate, flexible response to non-compliance, from coercive undertakings to significant penalties.

gathering powers be more effective to address non-compliance?		
16. Should additional regulatory tools be introduced into the Modern Slavery Act to penalise non-compliance?	Yes	Please see our response to Question 17 below.
17. If yes, which of the following additional regulatory tools should be introduced to respond proportionately to non-compliance? (a) Infringement notices (b) Enforceable undertakings (c) Redacting a statement (d) Other (please specify)	All	All options (a–c) should be introduced. Other tools should also be considered, including: <ul style="list-style-type: none"> • Amendments to the <i>Corporations Act 2001</i> (Cth) to allow for director disqualification for repeated or egregious breaches. • Exclusion from public procurement and government contracts for non-compliant entities. • Potential Australian Stock Exchange (ASX) listing rules changes for persistent non-compliance. • Civil penalties (<i>see also our response to Q18 below</i>) • Public naming of non-compliant entities (see the Canadian <i>Fighting Against Forced Labour and Child Labour in Supply Chains Act</i> that allows for public naming, compliance orders, and potential fines).
18. Should civil penalties be introduced into the Modern Slavery Act?	Yes	Civil penalties are a necessary deterrent. Entities that fail to submit statements, provide false or misleading information, or repeatedly submit incomplete statements must face proportionate sanctions.
19. If yes, which of the following civil penalties should be introduced into the Modern Slavery Act?	All	All listed penalties (a-c) should be available, as each addresses a distinct compliance gap. In addition, penalties should be considered for:

<p>(a) Failure to submit a modern slavery statement</p> <p>(b) Providing false or misleading information</p> <p>(c) Failure to comply with a request for remedial action</p> <p>(d) Other (please specify)</p>		<ul style="list-style-type: none"> • systematic submission of inadequate reports that do not meet mandatory standards, and • (escalating penalties) for repeated offences.
<p>20. Should any defences, such as mistake of fact, be considered for any proposed civil penalties?</p>	Yes	<p>Mistake of fact should be available as a narrow defence and subject to a high evidentiary threshold, to prevent abuse.</p> <p>No broad safe harbour should be offered for voluntary submissions that mislead or omit material facts.</p>
<p>21. What key considerations should be taken into account when considering the maximum penalty units for any penalty provisions?</p>	N/A	<p>Penalty units should be proportionate to entity size and revenue, ensuring deterrence without unduly penalising smaller entities.</p>
<p>22. There are a number of key subsidiary matters to consider when exploring the introduction of additional regulatory tools, including civil penalties.</p> <p>If additional regulatory tools are introduced, who should carry out these new functions:</p> <p>(a) The current regulator who has an existing support and advisory role</p>	Other	<p>The enforcement body must be independent and well-resourced to be able to deliver on any vested powers.</p> <p>Given the resource and budgetary constraints, it might be considered whether the Regulator should be housed within the existing experienced body with statutory powers, rather than creating an entirely new agency.</p> <p>A co-regulatory model should be considered, combining rights-based oversight and enforcement across the already established bodies.</p> <p>For example:</p>

<p>(b) An independent section or body</p> <p>(c) Other (please specify)</p>		<ul style="list-style-type: none"> • The Australian Human Rights Council (AHRC) to lead on guidance engagement, and human rights oversight • The Australian Securities and Investments Commission (ASIC) and the Fair Work Ombudsman to exercise enforcement powers for corporate, and labour-related breaches • The Anti-Slavery Commissioner (ASC) to coordinate strategy and ensure alignment with the UNGPs. <p>This approach would allow to leverage existing infrastructure, avoiding duplication and conflict of interest, while maintaining accountability.</p>
<p>23. For the regulator to effectively identify, investigate and litigate alleged non-compliance, the regulator will require:</p> <p>(a) Access to relevant information and data to identify regulated entities</p> <p>(b) Sufficient powers and access to relevant information to identify false or misleading information</p> <p>(c) Sufficient funding for investigation and litigation costs</p> <p>(d) Other (please specify)</p>	All	<p>All listed requirements (a–c) are critical.</p> <p>Additional requirements should include:</p> <ul style="list-style-type: none"> • Strong whistleblower protections • Mechanisms for worker testimony and evidence submission (in line with labour inspectors in Australia having powers to interview workers confidentially and protect informants from reprisals) • Ability to access cross-agency and international intelligence.
<p>24. Are there any other subsidiary issues to be considered?</p>	N/A	<p>Additional issues that should be considered:</p> <ul style="list-style-type: none"> • Enabling strategic litigation by affected parties and NGOs to complement regulatory enforcement • Maintaining a centralised and regularly updated list of high-risk goods,

		<p>sectors and geographies linked to modern slavery, to support consistent risk assessments (see, e.g., the US Department of Labor's List of Goods Produced by Child Labor or Forced Labor which serves as a public risk tool, improving targeted compliance)</p> <ul style="list-style-type: none"> • Mandating periodic independent audits of the enforcement systems to assess effectiveness.
--	--	---

Part C – Joint reporting

Section 14 of the Modern Slavery Act permits entities to submit a statement on behalf of one or more reporting entities. All reporting entities under the Modern Slavery Act are eligible to jointly report and there is no limit on how many entities a joint statement can cover. Entities that provide a joint statement may be part of the same corporate group or may be unrelated entities. The review highlighted that while flexibility of the joint statement process was generally supported, some feedback pointed to difficulties encountered in joint reporting. This included:

- dormant entities within a complex group structure may be required to report separately
- separate identification should not be required for each subsidiary within a group structure that meets the consolidated revenue threshold
- sign-off requirements can be complex for joint statements.

To address challenges with joint reporting processes, the department proposes replacing current joint reporting procedures with a system for corporate group reporting. Under this option:

- One statement would be submitted by the highest entity (parent entity) within a consolidated corporate group, on behalf of all entities within that group.
- The highest entity would be required to report on all owned and controlled entities (even if they do not meet the reporting threshold), ensuring that transparency relating to additional entities within the group structure is adequately covered.
 - This is consistent with current requirements of the Modern Slavery Act (paragraphs 16(1)(c) and (d)) which already require a reporting entity to report on 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; and to describe the actions taken by the reporting entity and any entity that the reporting entity owns or controls.
- The highest entity would identify as a reporting entity, on behalf of the corporate group. The highest entity would submit the modern slavery statement on behalf of all entities within that consolidated group. Any compliance action would be taken against the highest entity.
- Entities may apply to the regulator to alter the default reporting arrangements by:
 - having another entity report on their behalf (nominee reporting entity), or
 - having certain entities within the group report individually (subsidiary reporting entity).

For further information on the options to change joint reporting procedures refer to **Part C** of the consultation paper.

ALHR Responses

Consultation Question	Response	Expanded Response
25. Are there any additional difficulties encountered with joint reporting under the Modern Slavery Act?	Yes	Difficulties include inconsistency in the scope of reporting, lack of clarity regarding the responsibilities of each reporting entity, and reduced comparability between statements.
26. Does corporate group reporting adequately resolve challenges experienced by reporting entities with the current joint reporting model?	No	Corporate group reporting only partly resolves these challenges and risks masking poor practices or non-compliance at the subsidiary level.
27. Are there any new challenges that may result from replacing the current joint reporting process with a corporate group reporting model (with exemptions)?	Yes	Potential challenges include loss of subsidiary-level visibility, reduced accountability, and the risk that group statements may focus on corporate-level commitments without detailing operational realities in high-risk entities.
28. Should a corporate group reporting model be adopted, do the proposed exemptions (via application to the regulator) for subsidiary and nominee reporting entities provide appropriate and sufficient accommodations for different business structures?	Yes	Exemptions may be appropriate but must be narrowly defined, granted only upon regulatory approval, and subject to clear safeguards and periodic review to ensure they do not undermine transparency.
29. Should a corporate group reporting model be adopted, should any additional exemptions be considered to alter the default reporting	No	Additional exemptions should be rare and justified by compelling evidence that they maintain or enhance transparency and accountability, and should never create loopholes for high-risk entities.

arrangements of corporate group reporting?		
30. Are there alternative mechanisms to improve or amend the current joint reporting processes?	Yes	Alternatives include requiring both group-level and subsidiary-level reporting for high-risk operations, or mandating that consolidated reports contain annexes or cross-references detailing the specific risks, due diligence measures and remediation efforts for each entity.

Part D – Voluntary reporting

Any Australian entity or entity carrying on business in Australia can provide a voluntary modern slavery statement. Voluntary statements allow an entity who does not meet the revenue threshold to still demonstrate their commitment to identifying and addressing modern slavery risks to customers, investors and the broader community.

ALHR Responses

Consultation Question	Response	Expanded Response
31. Are any changes needed to the proposal to amend notification requirements for voluntary entities?	No	No significant changes needed, but greater clarity on obligations and reporting timelines would help ensure consistency and reduce confusion for voluntary entities.
32. Should the requirement for voluntary reporting entities to notify the Minister of their intention to voluntarily report be removed altogether?	No	The current requirements under section 6(1) of the Act should be retained. While it creates a minor administrative burden, it supports effective monitoring, facilitates engagement with voluntary reporters and ensures the integrity of the public register.
33. Are any changes needed to what potential new regulatory powers should apply to voluntary reporting entities?	Yes	Voluntary reporters should be subject to proportionate regulatory powers where statements are non-compliant, misleading or fail to meet minimum quality standards in order to maintain the credibility of the reporting framework.

34. Should the regulator be provided a new power to revoke an entity's status as a voluntary reporter (e.g. to manage non-compliant voluntary statements)?	Yes	<p>The Regulator should have this power, with safeguards to ensure procedural fairness, including:</p> <ul style="list-style-type: none"> • notice • the opportunity to respond, and • a right of review.
35. Will voluntary reporting entities use guidance designed to support small and medium-sized entities to engage with modern slavery risks in operations and supply chains and support compliance with the Modern Slavery Act? What topics should the guidance address and what form should it take?	Yes – voluntary entities will use guidance designed to support small and medium-sized entities	<p>Practically tailored guidance is likely to be widely used by voluntary entities, particularly SMEs.</p> <p>Guidance should address simplified and proportionate risk assessment methodologies, effective and scalable supplier engagement strategies, planning and implementing remediation mechanisms, and examples of good practice across the sectors, ideally in modular, accessible formats.</p>

Part E – Notification requirements to cease as a reporting entity

There are currently no requirements in the Modern Slavery Act for a reporting entity to provide notification that they will not be providing a modern slavery statement in a year following the earlier lodgement of a statement. There are several reasons why an entity may no longer meet the reporting threshold. These include decreased revenue for a reporting period or acquisition by another entity. As there is no formal mechanism for an entity to advise that they no longer meet the reporting threshold and will not be providing a statement for that reporting period, this inhibits the regulator's visibility of who is a reporting entity, which impacts the regulator's ability to undertake effective compliance action.

In response to recommendation 21 (notification requirements for reporting entities) from the review, we are seeking views on the following:

- An entity must provide notification that they will not be providing a modern slavery statement in a year following the earlier lodgement of a statement.
- An entity would remain as a reporting entity until they provide notification they will not be reporting, even if they no longer meet the threshold of a reporting entity under section 5 of the Modern Slavery Act.
- An entity must provide notification within 6 months following the end of the reporting period.
- An entity must provide an explanation as to why it will no longer be reporting under the Modern Slavery Act.

For further information on options to change the notification requirements to cease as a reporting entity refer to **Part E** of the consultation paper.

ALHR Responses

Consultation Question	Response	Expanded Response
36. Are any changes needed to the proposal to amend the notification requirements to cease as a reporting entity?	Yes	<p>Changes should ensure timely and accurate cessation notices, with requirements for supporting evidence.</p> <p>Notifications should be linked to a transition plan to avoid gaps in modern slavery risk management.</p>
37. Are any changes needed to the proposed requirement for an entity to provide notification they will cease as a reporting entity within 6	Yes	<p>The six-month timeframe is reasonable, but the framework should allow extensions in exceptional circumstances where justified and approved by the regulator.</p>

months following the end of the reporting period?		
---	--	--