



CONSTRUCTION & ENGINEERING ARTICLE

November 2015

Modern Slavery

The following article was written for and published in *The Scotsman* on 9 November 2015 (under the heading: "No hiding from government's intent to stamp out slavery") by Jonathan Gaskell and Caragh Nimmo.

The concept of slavery may seem archaic in modern Scotland, yet a Home Office report last month said 111 human trafficking victim referrals were made in Scotland in 2014. A significant proportion related to labour exploitation across a number of industries including construction, agriculture and hospitality. As a result, the UK and Scottish Parliaments have passed legislation designed to tackle this exploitation. It will require businesses to take active steps to ensure slavery and human trafficking is not occurring in their own organisation or supply chains.

Section 54 of the Modern Slavery Act came into force on 29 October and affects businesses operating in any part of the UK with a turnover in excess of £36 million. These commercial organisations will now be required to publish an annual slavery and human trafficking statement on websites, detailing steps taken that financial year to ensure their supply chains are slavery-free.

This obligation extends to every tier of a company's supply chain. A critical commercial consideration for firms operating internationally with multiple corporate structures will be whether to include only businesses that operate in the UK, or whether to detail steps taken for related companies globally. Commercial and reputational concerns, rather than the law, will drive this.

UK government advises the statement should be succinct and contain any steps the business has taken, together with links to relevant business publications or policies. If no such steps have been taken, the business must publish a statement to that effect. The reputational risks of making such a statement should not be underestimated. Consumers, investors and Non-Governmental Organisations may apply pressure to firms failing to act.

A director, member or partner of the organisation must approve and sign the statement and businesses should publish them as soon as reasonably practicable after their financial year-end. The first businesses required to publish have a year-end of 31 March 2016; therefore, some Scottish businesses have only five months to take any steps that they intend to detail in their statement.

Businesses should also expect their anti-slavery practices to be queried by companies with whom they contract, as these organisations seek to ensure transparency of their supply chains. While not legally obliged to do so, there is nothing to stop Scottish businesses with a turnover of less £36m publishing a statement. Such transparency will increase industry and consumer confidence in commercial activities.

Scottish businesses should also be aware of the new human trafficking and exploitation offence contained in the Human Trafficking and Exploitation (Scotland) Bill, due to be given Royal Assent this month. This Scottish Parliament Bill reforms Scottish human trafficking laws and creates a new offence of recruiting, transporting, transferring, harbouring, receiving, exchanging or transferring control of another person with a view to that person being exploited. It is also an offence to arrange or facilitate any of these actions. Companies incorporated in the UK may be prosecuted for this offence in Scotland.

Directors and company secretaries should note the Bill specifies that they will be personally liable where a human trafficking offence is committed by their organisation with the officer's consent, connivance or neglect. Company officers must be vigilant in ensuring these offences are not committed within their organisations or they may otherwise face personal prosecution.

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