

Modern Slavery Act 2015: Regional Implications

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The International Labour Organisation (“ILO”), an arm of the UN, estimates that around 21 million people are trapped in modern slavery. Many countries are beginning to focus on corporate institutions in the effort to drive out slavery and human trafficking at all phases of the supply chain.

The Gulf has a large migrant blue collar population which has driven and will continue to drive completion of various mega projects. The issue of modern slavery has been brought sharply into focus given the adverse publicity notably suffered by Qatar and to a lesser extent the UAE. In Qatar’s case, preparations for the 2022 World Cup have been beset by critical press attention, ILO complaints regarding treatment of blue collar workers and complaints from other human rights watchdogs. In response, the 2022 Supreme Committee and the Qatar Foundation have spearheaded initiatives to try and address some of the issues including the ongoing construction of ‘Labour Cities’ with improved living conditions for workers whilst the government has introduced a wage protection system to ensure workers are paid correctly and on time. However, efforts remain very much a work in progress given the length of time it takes to drive through new law or legislative amendments.

With the international press focus likely to further intensify in the run up to the 2022 World Cup and Dubai Expo 2020, the importance of companies demonstrating compliant and ethical treatment of workers should continue to be a paramount concern.

Modern Slavery Act and its reach

The Modern Slavery Act 2015 (the “Act”) was enacted in the UK on 29 October 2015, which addresses the need for companies to take action against slavery and human trafficking. We consider the potential impact of the Act within the Gulf.

The Act applies to commercial organizations (wherever incorporated) which carry out any part of their business in the UK, with a global gross annual turnover in excess of GBP 36 million (approx AED 198 million) or more each year. The application of the Act is cross sector and does not distinguish between foreign companies or companies incorporated in the UK. Accordingly, the Act will capture many businesses with a UK presence that carry out business in the Gulf.

In this respect, the relevant section of the Act is Part 6 Section 54 (Transparency in supply chains etc). This provision requires that companies falling under the scope of the Act publish an annual statement that states any and all efforts it is making or intends to make in order to put an end to slavery and human trafficking. The Act specifically states that the statement must include ‘the steps the organisation has taken during the financial year to ensure that slavery and human trafficking is not taking place in any of its supply chains, and in any part of its own business’. Accordingly such organisations must set out and capture the steps taken in relation to any part of its supply chain. If no steps have been taken, the organisation must acknowledge this in its statement.

The Act prescriptively sets out the nature of information that a company’s annual statement should contain such as (i) its slavery and human trafficking policies, (ii) the due diligence it carries out upon its

business and supply chains (iii) where risks arise in the business and supply chains and what steps have been taken to assess/manage these risks (iv) what training is available to staff and (v) steps taken to monitor effectiveness of preventive measures taken as against objectives.

Essentially, all companies within the scope of the Act but particularly those who sub contract work or buy products externally will be required to take responsibility and have oversight for each step of the supply chain (or essentially provide a statement to say that they are unwilling or unable to do so).

Many businesses within the Gulf do not have an understanding of the exposure to risk in their supply chain nor controls in place to manage those risks. The introduction of the Act obliges many businesses to better manage and control labour risk. Aside from the requirements of the Act it would be prudent for all businesses to take proactive steps to assess and manage modern slavery and human trafficking (whether captured by the scope of the Act or not), particularly those businesses that are labour intensive and/or those who operate supply chains with a lack of transparency.

What steps should be taken?

Many businesses carry out HR audits which consider compliance with local laws on an annual basis. Whilst such audits should remain part of an overall corporate governance strategy more is required for labour intensive businesses and/or organisations operating with supply chains that are complex/lacking transparency.

For such businesses, a much more proactive and holistic approach is recommended to identify the risks, put in place the necessary checks and balances and then monitor and report upon the outcomes. The introduction of policy guidance and appropriate staff training are essential steps as part of this process.

Failure to do so has many consequences. Aside from the potential for projects to be delayed or unwelcome scrutiny by governmental immigration and labour offices, the reputational risks of not taking proactive steps are significant and are likely to lead to further attention from the press, human rights' watchdogs and the public (consumers).