

PELS RIJCKEN



Business Human Rights wetgeving buitenland

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1

1

Global Legislative Developments

Existing Laws – Modern Slavery

- **California Transparency In Supply Chains Act 2010:** Certain companies required to report on their specific actions to eradicate slavery and human trafficking in their supply chains.
- **UK Modern Slavery Act 2015:** Companies carrying on business in the UK (with turnover of £36 million) obliged to publish statements regarding steps to address modern slavery.
- **New South Wales Modern Slavery Act 2018:** Organisations with 1 employee in NSW and a turnover of AUD 50 million. Implementing regulations will set out statement content requirements and will clarify “extra-territoriality”. Fine: up to AUD1.1 million for non-compliance.
- **Australian Modern Slavery Act 2018:** Includes mandatory reporting criteria (e.g. on slavery risks and mitigations steps) for companies based in/operating in Australia with a turnover of AUD100 million or more.

Emerging and New Laws – Modern Slavery

- **Hong Kong:** Modern Slavery Bill with MSA style reporting requirements, and new offences and a provision enabling victims to bring civil claims against perpetrators or others who received anything of value through involvement in a venture that they knew / should have known involved slavery. The Bill was debated in June; draft under discussion.
- **Netherlands:** Child Labour Due Diligence Law, companies providing goods/services to Dutch consumers will have to conduct child labour due diligence in their operations and supply chains. Passed in May 2019, will come into force in 2022.
- **Austria:** Proposed law on child and forced labour due diligence.
- **Norway:** Reporting on BHR issues by oil companies.
- **Canada:** A newly introduced Bill requires Canadian businesses and businesses that import into Canada to report annually on the risks of forced/child labour in their supply chains. Under the Bill businesses found to import goods produced using force/child labour may be prohibited from importing into Canada. To be tabled in the Senate.
- **US:** Ban on goods made with child labour and forced labor by Uyghurs, seizure by customs possible and ULC is discussing federal legislation on human trafficking.

Existing Laws – Human Rights

- **French Duty of Vigilance Law 2017:** Large French companies are obliged to publish and implement a vigilance / due diligence plan which considers human rights (which extends to “controlled” subsidiaries).
- **Directive 2014/95/EU Articles 19a / 29a:** EU headquartered large public interest entities including listed companies and banks with over 500 employees) need to report on issues including their human rights impacts. Currently under revision.
- **Section 172 of the UK Companies Act 2006:** Duty to promote success of the company including taking into account of employee welfare and impacts on communities and environment.
- **EU conflict minerals regulation:** has come into force as of January 1 2021.

Emerging Laws – Human Rights

- **EU proposal general due diligence:** first draft expected after summer of 2021, EP resolution has urged EC to propose legislation, draft text in annex.
- **Switzerland:** Two draft legislative proposals in the Swiss legislature which would require larger Swiss companies to carry out human rights due diligence in line with the UNGPs, and would make provision for parent company liability. Rejected by popular vote, new proposal may emerge.
- **Germany:** Parliament has adopted human rights due diligence law.
- **Norway:** Adopted transparency law regarding human rights due diligence
- **Netherlands and Belgium:** Parliamentary initiative for general human rights due diligence law.
- **UN Business and Human Rights Treaty:** Internationally legally binding instrument to regulate activities of transnational corporations and other business enterprises. Revised draft published in 2020.
- **Other:** Political discussions on human rights due diligence are underway in the US, Luxembourg, Finland and Sweden.

2

2



Modern Slavery (VK)

1. Reporting and single topic

1. Voornamelijk strafrechtelijk geïntereerd
2. Art. 54 verklaring over risico's en 6) stappen die in VK en daarbuiten worden gezet om modern slavery tegen te gaan
3. Voor grotere bedrijven
4. Moet worden ondertekend door lid raad van Bestuur (54(6)(a))
5. Op website als bedrijf die heeft
6. Handhaving heel beperkt

3

3



Loi de Vigilance (Frankrijk)

1. Brede human rights due diligence wetgeving

1. art. L. 225-102-4 Wet op handel en industrie
2. Hoofdkantoor in Frankrijk en 5.000 werknemers in Frankrijk of 10.000 wereldwijd
3. Plan de vigilance opstellen voor risico's en implementatie van plan voor eigen onderneming, dochterondernemingen en partijen waarmee een 'gevestigde commerciële relatie bestaat'
4. Handhaving door private partijen na ingebrekestelling
5. Verschillende procedures lopen onder deze wet
6. Oorspronkelijk opgenomen boete is geschrapt

4

4



Lieferkettensorgfaltspflichtgesetz (Duitsland)

1. Brede human rights due diligence wetgeving (art. 2)

1. art. 3, oa risicoanalyse en -management, en implementatie en mitigatiemaatregelen
2. Wat moet hangt oa af van omvang, invloed en aard, omvang en onomkeerbaarheid van schending
3. Jaarlijkse check of het werkt
4. Access to remedy (art. 3(7) en responsible exit als invloed niet werkt)
5. Geldt alleen voor first tier (art. 3 (6)(4)), maar bij substantiële kennis van schendingen verder in de keten wel risicobeheersing aanpassen als ook beleid (art. 3(9))
6. Klachtenmechanisme ook extern (art. 3(8) en (9))
7. Hoofdkantoor in Duitsland en 3.000 werknemers in Duitsland (art. 1)
8. Sancties: uitsluiting aanbesteding (art. 3(22)) en dwangsom en boetes (art. 3(23 en 24))

5



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6

6