

# Inquiry into the Modern Slavery Amendment (Australian Anti-Slavery Commissioner) Bill 2023 [Provisions]

Senate Legal and Constitutional Affairs Legislation  
Committee

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We would like to thank you for providing us with the opportunity to comment on the proposal to amend the Australian *Modern Slavery Act (2018)* (Cth), hereafter referred to as ‘the Act’, to include provision for an independent Commonwealth Anti-Slavery Commissioner.

“The Modern Slavery Amendment (Australian Anti-Slavery Commissioner) Bill 2023 would amend the *Modern Slavery Act 2018* to establish the Australian Anti-Slavery Commissioner as an independent statutory office holder in the Attorney-General's portfolio. The Commissioner's functions would allow the Commissioner to work with government, business, and civil society to support compliance with the *Modern Slavery Act 2018* and complement the roles performed by the Attorney-General's Department and other government agencies to prevent and combat modern slavery.”

1. *Support for establishing the position.* We fully support the establishment of an independent Commonwealth Anti-Slavery Commissioner in Australia at the national level.
2. *Education.* There remains much confusion in Australian society when it comes to modern slavery including what it is and how it impacts both Australian citizens and business. An independent Commonwealth Anti-Slavery Commissioner can help build awareness through educational programs. These are needed in the business sector, but also among young people who will be Australia's next generation of leaders. The Commissioner could roll out programs in high schools across the nation which we believe would constitute an effective use of resources in this area.
3. *Extend SME activities.* The establishment of an independent Commonwealth Anti-Slavery Commissioner is essential for dealing with modern slavery practiced by both opportunistic parties in smaller organizations and organized criminals, to help combat people smuggling, trafficking in persons and related transnational crime, forced labour, bonded labour, etc. SMEs wishing to do the right thing also need assistance and the Commissioner could lead development of resources in this space.
4. *International and regional engagement.* As modern slavery is a global issue it needs to be managed up to the regional and international levels, something an independent Commonwealth Anti-Slavery Commissioner in Australia needs to do in this area where Australia already has a reputation as a leader in the Bali Process and where businesses interact with supply chains in South East Asia, a geographical area where modern slavery is concentrated. We recall the important contribution of the UK Independent Anti-Slavery Commissioner, Mr Kevin Hyland, in the process of developing legislation in Australia and our Commissioner can do likewise.
5. *Independence.* The appointment of a Commonwealth Anti-Slavery Commissioner complements the appointment of the new UK Anti-Slavery Commissioner, Elenor Lyons, but must be demonstrably independent of government, something that has dogged the UK appointment (Syal and Taylor, 2023).
6. *Inclusion of individuals with lived experience of modern slavery.* Should this Bill be accepted by both houses it is crucial that the Office of the Commonwealth Anti-Slavery Commissioner be appropriately funded to include people with lived experience of modern slavery who can serve in an advisory capacity. The Office of the NSW Anti-Slavery Commissioner provides an exemplar for how this can be achieved.
7. *Trade.* As international trade is such an important cornerstone of the Australian economy there is need for consistency in the application of Modern Slavery legislation throughout Australia. A Commonwealth Anti-Slavery Commissioner should focus on national and international operations and supply and value chains of entities in a consistent and efficient way with international

jurisdictions, such as the USA where goods suspected of having a forced labour component can be confiscated. The Commissioner should lead a new inter-agency to integrate initiatives such as modern slavery reporting, building education and awareness, removing competitive advantage associated with modern slavery practices (e.g., illegal cost reduction), and movement of funds associated with modern slavery.

8. *Increase engagement with consumers.* In this vein, the independent Commissioner should interact with the Australian Competition and Consumer Commission to strengthen the consumer focus on modern slavery, the banning of products and services tainted with modern slavery, and cooperation with international bodies having a similar focus. Likewise, it should identify the relative importance of business to business consumption and modern slavery through networks in supply and value chains.
9. *Whole of government approach.* Although Australia has a federal system of government a whole of government approach to modern slavery is required, driven by an Anti-Slavery Commissioner at the centre. States that already have an Anti-Slavery Commissioner, or who are considering such local appointments, should be discouraged, with these positions being dismantled and resources saved being applied to assisting victims.
10. *Engaging with researchers.* An important aim of having a Commonwealth Anti-Slavery Commissioner should be to encourage research at both conceptual and evidence-based levels. The former is important as frameworks are developed to address all aspects of modern slavery and, in particular, how to address changes to institutional structures and behaviours that are needed to help end modern slavery. The latter is important as organizations grapple with the actual extent of modern slavery practices and metrics are developed to reduce the gap between estimated and actual instances of modern slavery. Furthermore, the Commissioner could help encourage the building of academic infrastructure by universities to research into modern slavery, to publishers to publicise related journals and built quality, and to funding institutions in industry and government to increase their support.
11. *The finance sector.* While the Bill specifies the budgeted amount for establishment and ongoing expenses (para. 13) and accountability for these funds (para. 18) it misses the opportunity to specify the role of the Commissioner in ensuring that the financial sector's direct and indirect involvement in modern slavery and the links with financial crime (e.g. money laundering) are made transparent. This needs to be addressed as there is controversy in Europe over the EU exclusion of the financial sector from the Corporate Sustainability Due Diligence Directive, whereas in Australia and the UK the financial sector is included in modern slavery statement reporting. The Commissioner needs to champion inclusion of the financial sector when engaging with international players.
12. *Child forced labour, trafficking and forced marriage.* Section 22 of the Bill provides a usefully wide window of human rights and freedoms with which a Commissioner might engage. One of these, at 22(g) relates to the United Nations Convention on the Rights of the Child. Child modern slavery abuses, whether of females or males, is underplayed in the current focus on reporting by large businesses and the Commissioner's activities. The Commissioner should specifically engage with making this practice in Australia apparent. One suggestion to follow up is that the Commissioner should engage with the Department of Social Services which is about to undertake a funded ten-year study of the early years of children in Australia (Australian Government, 2023), but there is no consideration of modern slavery aspects in their approach. This could represent a leading way of

removing invisibility on the issue that may be introduced to other countries in modern slavery intensive areas (see para. 36 of the Bill).

With regards,

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## References

Australian Government (2023). The Early Years Strategy. Available at: [https://www.dss.gov.au/sites/default/files/documents/12\\_2023/early-years-strategy-consultation-report-2023\\_0.pdf](https://www.dss.gov.au/sites/default/files/documents/12_2023/early-years-strategy-consultation-report-2023_0.pdf). Viewed 16 December 2023.

Syal, R. and Taylor, D. (2023). Labour accuses new antislavery watchdog of being 'Conservative patsy'. The Guardian, 12 October. Available at: <https://www.theguardian.com/politics/2023/oct/11/labour-accuse-new-anti-slavery-watchdog-of-being-conservative-patsy>. Viewed 16 December 2023.