

EXPLANATORY MEMORANDUM TO
THE MODERN SLAVERY ACT 2015 (TRANSPARENCY IN SUPPLY CHAINS)
REGULATIONS 2015

2015 No. 1833

1. This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This instrument prescribes that commercial organisations with a total turnover of at least £36m will be required to publish a slavery and human trafficking statement under section 54 of the Modern Slavery Act 2015 (“the 2015 Act”). It also sets out how the total turnover of a commercial organisation is to be calculated.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Context

4.1 Section 54(1) and (2) of the 2015 Act requires a commercial organisation to prepare a slavery and human trafficking statement for each financial year of the organisation if it supplies goods and services and its total turnover is not less than an amount prescribed by the Secretary of State. The total turnover of an organisation is determined in accordance with regulations made by the Secretary of State (section 54(3)).

4.2 A slavery and human trafficking statement for a financial year is a statement of the steps the organisation has taken during that year to ensure that slavery and human trafficking is not taking place in any of its supply chains or in any part of its own business (or a statement that the organisation has taken no such steps) (section 54(4)). Under section 54(7), the statement must be published on the organisation’s website with a link to the statement in a prominent place on that website’s homepage (an organisation that does not have a website must provide a copy of the statement on request within 30 days).

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

The Minister for Preventing Abuse and Exploitation has made the following statement regarding Human Rights:

In my view the provisions of the Modern Slavery Act 2015 (Transparency in Supply Chains) Regulations 2015 are compatible with the Convention rights.

7. Policy background

7.1 Slavery and trafficking are heinous crimes that strip individuals of their dignity. Business has a role to play in tackling these crimes. That is why section 54 of the 2015 Act requires commercial organisations, with a prescribed level of turnover, to publish an annual slavery and human trafficking statement. That statement must disclose what steps the organisation has taken to ensure that slavery and human trafficking is not taking place in any of its supply chains or business; or, alternatively, that the organisation has taken no such steps.

7.2 The transparency in supply chains measure at section 54 of the 2015 Act aims to ensure that major businesses are transparent about what they are doing to tackle modern slavery. At the same time it gives those businesses sufficient flexibility to make the choices which work best for them in ensuring that they keep their business and supply chains slavery free, reflecting the needs of their particular operation. Once it is made clear what activity major businesses are undertaking to ensure slavery and human trafficking is not taking place in their supply chains or own business, the Government believes that pressure from consumers, shareholders and campaigners and competition between businesses will encourage more recalcitrant organisations to take action.

7.3 This instrument is needed to set out the size of business which will be subject to the requirements of section 54 of the 2015 Act. Under section 54, both the calculation of the total turnover of the business and the threshold amount of total turnover at which the provision applies are to be set out in regulations.

7.4 These regulations set out that a commercial organisation's total turnover is the turnover of that organisation and the turnover of any of its subsidiary undertakings. The definition of subsidiary undertakings reflects that already used in section 1162 of the Companies Act 2006. Turnover means the amount derived from the provision of goods and services, deducting any trade discounts, value added tax and any other taxes based on the amounts so derived.

7.5 The instrument prescribes the threshold amount of total turnover for a business where the requirements of section 54 are to apply. Following a full public consultation, the instrument sets the amount of the turnover threshold at £36m. A significant proportion of respondents to the consultation (80%) recommended setting the threshold at £36m. This will align with the definition of a large business in the Companies Act 2006 and will

also ensure that all of those businesses who have the resources to undertake effective due diligence will be required to produce a statement.

- Consolidation

7.6 Not applicable.

8. Consultation outcome

8.1 The level of the turnover threshold has been subject to a full public consultation. The consultation was published on 11 February and the document can be found at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/403575/2015-02-12_TISC_Consultation_FINAL.pdf. The transparency in supply chains consultation ended on 7 May 2015. The consultation asked a number of questions relating to the turnover threshold for commercial organisations that would be required to comply with the provision and the content of statutory guidance. 79% of respondents who answered the question relating to level of turnover said that the turnover threshold should be set at £36m. Respondents included businesses, trade associations and a range of NGOs. The Government's response to the consultation can be accessed at: <https://www.gov.uk/government/consultations/modern-slavery-and-supply-chains>.

9. Guidance

9.1 The Home Office will publish guidance in relation to the duties imposed on commercial organisations under section 54 of the 2015 Act ahead of those duties coming into force. The consultation paper referred to above sought views in relation to content of the guidance and the Government's response sets out how it intends to proceed.

10. Impact

10.1 The impact on business, charities or voluntary bodies is small. Businesses above a specified turnover threshold of £36m will be required to produce a slavery and trafficking statement for each financial year of the organisation.

10.2 The impact on the public sector is nil.

10.3 An Impact Assessment is attached to this memorandum and will be published alongside the Explanatory Memorandum on the legislation.gov.uk website.

11. Regulating small business

11.1 The legislation does not apply to small businesses.

12. Monitoring & review

12.1 The provisions of the Modern Slavery Act 2015 and, by extension, the provisions of these regulations, will be subject to the normal post-legislative review three to five years after Royal Assent. A formal requirement to review the regulations within 5 years has been included.

13. Contact

Justine Currell at the Home Office Tel: 0207 035 8205 or email:
Justine.currell@homeoffice.gsi.gov.uk can answer any queries regarding the instrument.