

4 October 2019

Standing Committee on Social Issues
Legislative Council
Parliament of New South Wales

[Via Parliament website](#)

Dear Sir/Madam

Inquiry into the *Modern Slavery Act 2018* and associated matters

We welcome the opportunity to provide feedback to the Standing Committee on Social Issues on the Inquiry into the *Modern Slavery Act 2018* and associated matters (“the Inquiry”).

We have also provided comments on the [Draft Modern Slavery Regulation 2019](#) to the NSW Department of Premier and Cabinet (DPC). Key matters which we expressed in our submission to the DPC have been reiterated in this submission.

The Appendix provides more information about Chartered Accountants Australia and New Zealand (CA ANZ).

General Comments

We recognise the *Modern Slavery Act 2018 (NSW)* (“the NSW Act”) was the first-of-its-kind legislation in Australia and we strongly support the objects of the Act to encourage collaborative action to combat modern slavery. However, given the existence now of the *Modern Slavery Act 2018 (Cth)* (“the Commonwealth Act”), we do not consider a separate reporting scheme to be necessary. Having two separate reporting schemes in Australia will create unnecessary complexity and confusion. The modern slavery reporting requirements under the Commonwealth Act apply to all entities in Australia with consolidated turnover greater than \$100m. As the NSW Act only applies to NSW based organisations with between \$50–\$100m revenue and carries penalties for non-compliance, this will create an additional regulatory burden for NSW entities. We consider it would be preferable to allow time for modern slavery reporting to mature under the Commonwealth Act before determining whether penalties and/or a lower reporting threshold should be applied.

Terms of Reference

(a) the operability of the proposed anti-slavery scheme

The NSW and Commonwealth Acts have significant overlap, which we have observed has caused confusion with many of our members and the wider business community. This confusion has taken focus away from the fundamental objective of both Acts and we are concerned by potential adverse policy outcomes in Australia as a result. It is important that adequate details (including definitions) are provided through regulations, supporting guidance materials as well as availability of appropriate education and awareness raising by the NSW Anti-Slavery Commissioner.

We note in Clause 11 of the Explanatory Paper for the Draft Modern Slavery Regulation 2019 (NSW) (“the draft regulations”) that it “may be preferable for the first reporting period to be aligned with the 2019-20FY with first reports due by December 2020, even if the Act commences later than 1 July 2019. This will align with the first reporting period under the Commonwealth Act”. We do not support the retrospective application of the NSW Act and believe the inclusion of this statement in the explanatory paper causes confusion.

(b) the effect of the anti-slavery scheme on business, including the supply chain reporting obligations under section 24 of the NSW Act

Some of our members have expressed concerns around meeting the reporting requirements under the Act. Many have noted that significant work is needed to adequately prepare, in particular, the extensive task in mapping out multi-tiered supply chains. Business will need to dedicate resources, particularly in the first few years to navigate through their supply chains and how to appropriately report under the Act.

There has been little communication and engagement with organisations, particularly those smaller entities who would be captured by the NSW Act, therefore they may not be aware of their obligations. Furthermore, we note that the NSW Act requires entities to report on activities undertaken *during* the reporting period. The NSW reporting scheme should allow sufficient time prior to its commencement for the development of guidance material and awareness raising activities to enable businesses to prepare.

(c) the intended application of the anti-slavery scheme with respect to charities and not-for-profit organisations, State Owned Corporations and local councils

We do not object to the proposed exemption for small business (with less than 20 employees) in the draft regulations. However, we do not believe that all charities and not-for-profits should be exempt. These sectors are not immune to modern slavery risks. Many will have complex supply chains, with some extending overseas. In addition, these sectors typically handle public funds and we consider it is in the public interest for them to take action to eradicate modern slavery in their supply chains.

(g) whether the passage of the Modern Slavery Act 2018 (Cth) renders parts or all of the NSW Act unnecessary, or requiring of amendments to address inconsistencies or gaps

As noted in our comments above, we consider the reporting requirements under the NSW Act to be unnecessary.

We note that the draft regulations do not define ‘annual turnover’ which is considered an integral component of the regime. The Commonwealth Act clearly defines consolidated revenue with reference to the *Corporations Act 2001*. We recommend including a clear definition of ‘annual turnover’ as it relates to the draft regulations and suggest reference to AASB 15, Appendix A Defined Terms.

Further, some of our members have expressed confusion about the interaction between the NSW Act, the Commonwealth Act and their respective reporting thresholds. Many have questioned if there will be a requirement for businesses to “report” their annual turnover and justify their non-reporting if they fall below the \$50m revenue threshold one year but are above the next. We recommend practical guidance is published to outline pathways for reporting and the interaction with the Commonwealth Act reporting requirements.

(h) the preferred course of action to address the matters identified

In our opinion, a single, national modern slavery reporting regime under the Commonwealth Act is sufficient in Australia. A separate reporting requirement in NSW is unnecessary.

We strongly support the important role of the independent NSW Anti-Slavery Commissioner and the role they will have in educating the business community and raising awareness of modern slavery within

NSW. This role, as a state-based support system, complements the existing Commonwealth Act and would also provide a leading example for other states in Australia. We recommend this important aspect of the NSW Act remains.

Should you have any queries concerning the matters discussed above or wish to discuss them in further detail, please contact Karen McWilliams via email at karen.mcwilliams@charteredaccountantsanz.com or phone (+612) 8078 5451.

Yours sincerely



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Appendix

About Chartered Accountants Australia and New Zealand

Chartered Accountants Australia and New Zealand is a professional body comprised of over 120,000 diverse, talented and financially astute members who utilise their skills every day to make a difference for businesses the world over.

Members are known for their professional integrity, principled judgment, financial discipline and a forward-looking approach to business which contributes to the prosperity of our nations.

We focus on the education and lifelong learning of our members, and engage in advocacy and thought leadership in areas of public interest that impact the economy and domestic and international markets.

We are a member of the International Federation of Accountants, and are connected globally through the 800,000-strong Global Accounting Alliance and Chartered Accountants Worldwide which brings together leading Institutes in Australia, England and Wales, Ireland, New Zealand, Scotland and South Africa to support and promote over 320,000 Chartered Accountants in more than 180 countries.

We also have a strategic alliance with the Association of Chartered Certified Accountants. The alliance represents 788,000 current and next generation professional accountants across 181 countries and is one of the largest accounting alliances in the world providing the full range of accounting qualifications to students and business.