

**LEGISLATIVE COUNCIL
HANSARD - Excerpt**

Tuesday 5 September 2023

MOTION

Australian Modern Slavery Act 2018

[Excerpt]

[12.02 p.m.]

Ms WEBB (Nelson) - Mr President, it is my great pleasure to rise to bring on this motion in my name, which I will now read in before I speak to it. I move -

That the Legislative Council -

- (1) Notes the Australian Modern Slavery Act 2018 (the Act) which commenced on the 1st of January 2019.
- (2) Recognises the Act requires large businesses and other entities in Australia to report annually on how they are addressing modern slavery risks in their domestic and global operations and supply chains, with these reports placed online at the Modern Slavery Statements Register.
- (3) Notes that the Act's objectives include:
 - (a) increasing business and government awareness of modern slavery risks, and support entities to identify, report and address those risks;
 - (b) equipping and enabling large businesses to be responsible and transparent in responding to modern slavery risks recognising the potential flow-on market effects, including consumer support and business reputation and competition for investor funding; and
 - (c) providing a practical mechanism by which to give effect to Australia's international treaty obligations to prevent and combat human trafficking and slavery and slavery like practices.
- (4) Recognises Tasmanian Government Business Enterprises, State Owned Companies, and other entities as defined under the Tasmanian Financial Management Act 2016, and which have a minimum annual consolidated revenue of \$100 million, are required to comply with the national Act.

- (5) Welcomes the recent practice of Aurora Energy to publish its Modern Slavery policy and Modern Slavery Supplier Code of Conduct on its website.
- (6) Requests the Tasmanian government to write to all state GBEs, state-owned companies and any other relevant entities as defined under the Tasmanian Financial Management Act 2016, and which meet the specified minimum annual consolidated revenue threshold as defined by the national Act, it is the Government's expectation that all such entities:
 - (a) publish on their respective websites all:
 - (i) modern slavery policies and codes of conduct; and
 - (ii) former, current and future compliance reports submitted to the Modern Slavery Statements Register; and
 - (b) include an update on the status of modern slavery compliance reporting within the entities' respective annual reports, commencing with the forthcoming annual reports.

When I first rose to speak, I did say it was my great pleasure to bring on debate for this motion. However, in truth, I can say that is not entirely the case. It would be fair to say every member in this place would prefer not to be discussing the abhorrent scourge that is modern slavery.

I am sure none of us here need to be convinced of its horrors or even of the sad and troubling fact of its existence. However, as the Commonwealth Modern Slavery Act 2018 acknowledges, these crimes do exist.

Further, we recognise there is a role for parliaments, at all tiers, for the community and specifically for all financial entities, regardless of length or complexity of supply chains, to do our bit and to ensure due diligence is as rigorous as possible to ensure those supply chains are free of all elements recognised as constituting modern slavery.

The definition of modern slavery in the Modern Slavery Act 2018 includes the following conduct:

trafficking in persons, as defined in Article 3 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, ...; or

... the worst forms of child labour, as defined in Article 3 of the ILO Convention (No. 182) concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, ...

It also includes conduct that would constitute an offence under existing human trafficking, slavery and slavery-like offence provisions, set out in Divisions 270 and 271 of the Commonwealth Criminal Code.

Broadly, the term 'modern slavery' refers to any situation of exploitation where a person cannot refuse or leave work because of threats, violence, coercion, abusive power or deception.

Practices recognised as forms of modern slavery include: human trafficking, servitude, worker exploitation, child labour, forced labour, forced marriage, debt bondage, and deceptive recruiting for labour or services.

It is a sad truth many Australians, including Tasmanian businesses, remain unaware of the risks they may have slavery in their business or supply chains.

Further, Tasmanians of all walks of life, consumers, customers and clients, all of us here could unwittingly be contributing to the modern slavery economy without realising it, due to the complexity of the global market place.

Of those, statistically, the incidence of modern slavery within Australia may appear to be relatively low. Experts in the field warn it is likely that the statistics reflect a low level of awareness of the issues. The actual incidence may be much higher, both domestically and overseas.

For example, the 2022 Global Estimates of Modern Slavery released by the International Labour Organization, in September last year, found the following:

Close to 50 million people globally are subject to some form of modern slavery, which is an increase of nearly 10 million from the 2018 estimates.

There are in excess of 27.6 million people in situations of forced labour on any given day; 3.5 people for every 1000 people in the world, with women and girls making up 11.8 million of the totals. More than 3.3 million of all those in forced labour are children.

Collectively, approximately US\$193 billion per year is generated in the global private economy from forced labour alone.

15.1 million in Asia and the Pacific region are enslaved, which makes up 55 per cent of all people enslaved globally. 15 000 people in Australia are enslaved.

To reiterate, these shocking figures are, in fact, conservative estimates with the actual incidence likely to be much higher both domestically and globally.

The 15 000 people in Australia being enslaved is a conservative estimate and feels unthinkable to us in just trying to absorb that fact. I cannot even begin to imagine what it is like to be living it.

For those unaware of why I am familiar with the Commonwealth Modern Slavery Act 2018, it is worthwhile providing a quick overview to provide context for the debate on this motion.

The Modern Slavery Act 2018 commenced on 1 January 2019 and complements Australia's comprehensive criminal justice response to modern slavery. The act was established through extensive consultations with the Australian business community and civil society. At this point, I will pause to point out that there is a Tasmanian connection with the current national Modern Slavery Act and a connection of which this parliament should be proud. I am sure our Labor colleagues here are proud of the fact that former Tasmanian member of the House of Assembly, Lisa Singh, once she became a Tasmanian senator for this state, was a pivotal driver behind this law.

In 2016, as a member of the Parliamentary Committee on Law Enforcement, Ms Singh initiated an inquiry into human trafficking and slavery, which went on to make a number of key recommendations about the prevention of slavery and provision of support to victims. This then saw the parliamentary Joint Standing Committee on Foreign Affairs, Defence and Trade initiating its own inquiry into the establishment of a national Modern Slavery Act. While it is impossible to say any one person can be solely responsible for key pieces of legislation such as this, it is important to acknowledge those who are recognised as driving and contributing to the overall momentum for change. Hence, I place on the record my acknowledgement and recognition of Ms Singh as a former Tasmanian parliamentarian for her invaluable work on pursuing this significant national law reform.

Under the act, large businesses and other entities operating in Australia must report annually on how they are addressing modern slavery risks in their domestic and global operations and supply chains. The statements are then placed on an online public register, the Modern Slavery Statements Register, the first government-operated register of its kind internationally, which is quite laudable for this country to have achieved.

Further, the act is described as a transparency reporting law. The onus falls upon those businesses, state and private, whose annual consolidated revenue threshold meets the minimum or higher, as detailed in the act. They must comply with the following mandatory reporting obligations: the identity of the reporting entity; the structure, operations and supply chains of the reporting entity; the risks of modern slavery practices in the operations and supply chains of the reporting entity; and any entities that the reporting entity owns or controls; the actions taken by the reporting entity and any entity the reporting entity owns or control, to assess and address those risks; and how the reporting entity assesses the effectiveness of such actions, the process of consultation with any entities the reporting entity owns or controls or is issuing a joint modern slavery statement with; and any other information that the reporting entity or entity giving their statement considers relevant. Businesses must describe the risk of modern slavery and the actions taken in the reporting year to address those risks. These are currently the criteria which businesses with annual consolidated revenue of \$100 million or more must comply with.

Members may also be aware that on 31 March 2022, a statutory review of the act commenced and was undertaken by Professor John McMillan AO. The review was tabled in the federal parliament in May this year and makes 30 recommendations currently being considered by the federal government. Those recommendations include the following: introducing penalties for noncompliance with statutory reporting requirements; lowering the

reporting threshold from \$100 million to \$50 million; requiring entities to report on modern slavery incidents or risks; amending the act to require entities to have a due diligence system in place; strengthening the administration of the act through proposed legislative amendments and expanded administrative guidance; and proposing functions for the federal Anti-Slavery Commissioner in relation to the act.

It is beyond the scope of today's debate to analyse in any detail the McMillan Review but it is worth emphasising that specific recommendation of lowering the reporting threshold from an annual consolidated revenue of \$100 million to more than \$50 million, which will mean potentially more Tasmanian businesses will need to comply with the act's reporting requirements if that is brought forward. This in itself points to how serious modern slavery concerns are and the need to be taking action. When making that recommendation, the McMillan Report states this:

Another important recommendation is that the reporting obligation under the act be extended to businesses that have annual consolidated revenue of \$50 million or more. The current reporting threshold is \$100 million. The lowered threshold would bring Australia into line with developments in due diligence and transparency reporting laws in other countries and recognise that human rights abuses must be the concern of all business.

That is on page 9 of that report. Clearly, the need to address modern slavery is being recognised and acted upon by other jurisdictions globally, and we need to ensure we do not fall behind those developments in rigorous due diligence and compliance mechanisms.

Some may wonder, this is a national act. What does all this have to do with Tasmania and the Tasmanian Parliament? Basically, Tasmanian businesses must comply with the Modern Slavery Act if and where applicable. This means that currently all Tasmanian businesses in the private sector, as well as state-owned and government business enterprises with an annual consolidated revenue of \$100 million or more, must comply with the annual reporting requirements under the act, as I have just summarised.

These reports must then be lodged on the Modern Slavery Statements Register online, which are publicly available. A quick scan of the register reveals recognisable names in the private sector such as Norske Skog, MMG Limited, Nyrstar, Simplot, Petuna Aquaculture, Hazell Bros Group and even Mulawa Holdings Pty Ltd, just to mention a few.

In the following Tasmanian state-owned companies and GBE groupings we find the following submitting their annual modern slavery reports to the register: TT-Line, TasNetworks, Aurora Energy, TasPorts, the Tasmanian Water and Sewerage Corporation, the RACT Group, Tabcorp, Forestry Tasmania for 2021 and 2022, which may be why it is not lodged as Sustainable Timber Tasmania, and the Hydro Tasmania Group.

As a quick aside, members may be interested to know that New South Wales has introduced its own Modern Slavery Act. Despite being passed in 2018, it did not come into force until 2022, quite recently. Originally, the NSW act introduced a reporting obligation on both government bodies and corporations operating in Australia with a consolidated revenue of \$50 million.

However, the New South Wales act was subsequently harmonised with the Commonwealth act and ultimately came into effect in 2022 with reporting obligations only for New South Wales government bodies, local councils and state-owned corporations, and an obligation to take reasonable steps to ensure that goods and services procured are not the product of modern slavery. The New South Wales act also empowers the New South Wales Anti-Slavery Commissioner, the New South Wales Procurement Board and the Auditor-General to oversee efforts to remove products of modern slavery from public procurement.

In that context, I think we can all agree the proposal in the motion before us to have that list of Tasmanian state-owned companies and corporations proactively publish the reports they submit to the National Register also upon their domestic website, and provide an update in their respective annual reports, is a very modest step indeed.

Hopefully, the McMillan Review of the federal act, as well as the examples in other interstate jurisdictions implementing their own legislative, regulatory and due diligence architecture, may give this parliament food for thought for future reforms. However, in the interim, this motion proposes a modest step towards raising broader public awareness of modern slavery and why we need to be rigorously diligent in expelling it from our supply chains and businesses.

There are still so many - particularly in Western societies - in relatively privileged positions that presume that the blighted days of slavery are over and consigned to the pages of history, thanks to the efforts of those of centuries past such as William Wilberforce and the anti-slavery result of the Civil War between the United States and the breakaway Confederate states in the 1860s.

With the bliss of ignorance, there are many who genuinely believe that slavery is an historic artefact associated with cruel accoutrements of the past, chains and manacles and whips. However, as we know and as is highlighted by the work of international entities such as the International Labour Organization, the International Organization for Migration and Walk Free, that organisation I mentioned earlier, slavery of modern times does exist.

The modern chains and manacles of current slavery are the stolen passports, the withholding and stealing of barely subsistence wages, while the whips are the constant fear of retribution threatened against families, children and loved ones. Whereas the slavery of yesteryear was predominantly visible and overt, current modern slavery is very deliberately kept underground. It relies on secrecy, on fear, blackmail, extortion and on silence - and, worse, it is enabled by those with an inkling turning a blind eye.

Earlier in my contribution I acknowledged that I am sure we would have a unanimous agreement across this Chamber that modern slavery and human trafficking is abhorrent, with none of us wishing ever to even inadvertently be perceived as downplaying or rationalising our collective responsibility to combat these inhuman practices.

I also wish to acknowledge and stress that the purpose of this motion is not necessarily about attempting to convince any member in this place. I realise and respect such efforts are likely unnecessary. Nor is it about inferring that either the current state Government or our state-owned companies or GBEs are not doing what they should be doing or are not complying

with the Commonwealth Modern Slavery Act. There is no intent to reprimand or criticise in this motion. I wish to be very clear about that.

Instead, the purpose of the motion is to provide this Chamber with the opportunity not only to take a united stand and present a united front against the abhorrent scourge of modern slavery, but to also propose a practical step by which we can encourage greater awareness about this challenge. It is an opportunity to propose a course of formal and official action by which those state-owned companies and GBEs currently required to comply with the Modern Slavery Act 2018 build upon that effort they are already undertaking when they comply with the federal act by publicising that work more broadly. By making current compliance reporting by Tasmanian entities front and centre rather than incidental, we may do our bit to further the goals of the Modern Slavery Act. Those goals are stated in its purpose, and it says this:

An Act to require some entities to report on the risks of modern slavery in their operations and supply chains and actions to address those risks, ...

Despite the Modern Slavery Statements Register being publicly available via its website, the viewing of that register presumes an awareness of the challenge to tackle current slavery practices and an awareness of the existence of the register in order for people to view it.

If we are to truly break the current chains of modern slavery, we need to grow the awareness beyond those who already hold it. There may be ways of achieving that greater awareness and remedial action of which the steps proposed in this motion are only a small component, but we need to take all options available to be implemented.

To be clear, this motion only covers state-owned companies and GBEs. It does not seek to include Tasmanian private businesses operating in the private sector, which may also have to comply with the Commonwealth act due to their annual consolidated revenue. They would be very welcome to consider such actions themselves, publicising their reporting on their website and annual reports. It would be commercially advantageous to do so.

That brings us to the crux of the motion before us specifically set out in clause (6), which says:

- (6) Requests the Tasmanian government to write all state GBEs, State owned companies and any other relevant entities as defined under the Tasmanian Financial Management Act 2016, and which meet the specified minimum annual consolidated revenue threshold as defined in the national Act. It is the government's expectation that all such entities:
 - (a) publish on their respective websites all:
 - (i) modern Slavery policies and codes of conduct; and
 - (ii) former, current and future compliance reports submitted to the Modern Slavery Statements Register; and

- (b) include an update on the status of Modern Slavery compliance reporting within entities' respective Annual Reports commencing with the forthcoming Annual Reports.

This proposal does not require our GBEs, state-owned companies and any other relevant entities to undertake any new compliance work other than what they are already required to do under the federal act. This is consistent with the intent and purpose of the federal act, which is fundamentally a transparency reporting law. All this proposal requires is that other than just providing their annual Modern Slavery Compliance Report to the federal Modern Slavery Statements Register, once their reports are provided to that register, the entities then also publish those reports on their respective local websites and also include them in their annual reports - a form of awareness-raising value-adding to the compliance work they already are required to undertake.

For example, Tasmanians when browsing on, say, the Aurora website for whatever reason, may then come across the company's modern slavery policy and code of conduct and reports submitted to the Modern Slavery Statements Register. By doing so, that may spark an interest to find out what this is all about and why the work is being undertaken. Similarly, when people read annual reports or those delegated to comply with those annual reports may for the first time be made aware not only of the extent of modern slavery in Australia, including Tasmania, but that we are not immune to it. We are all responsible for taking whatever steps we can to ensure we are not inadvertently perpetuating, propping up or benefiting from modern slavery and human trafficking crimes.

Mr President, as stated by Professor McMillan in his statutory review of the Commonwealth act, I quote this from page 8:

Placing this assessment on a public register aims to encourage entities to be serious in identifying, reporting and addressing modern slavery risks. This can have flow-on market effects in consumer support, business reputation and competition for investor funding. If the transparency framework works as intended, there will be a race to the top.

This race to the top can only be assisted with greater public accessibility to these annual compliance reports. Every additional small effort to grow awareness and scrutiny makes it that little bit harder for the shroud of secrecy to keep protecting these horrific crimes against humanity. That is what modern slavery is: a crime against humanity.

To conclude, I wish to elucidate a little further on clause (5) of the motion, which reads:

Welcomes the recent practice of Aurora Energy to publish its Modern Slavery policy and Modern Slavery Supplier Code of Conduct on its website.

Some members here who were on the same GBE estimate scrutiny hearings with me a year or so ago may recall that I asked different state-owned companies and GBEs whether they had given any thoughts to publishing their Modern Slavery Compliance Reports which they had submitted to the national register on their own websites and in their own annual reports.

All of those entities to which I put that proposal confirmed that additional publishing of their reports had not been considered at that time. Subsequent to the scrutiny hearings, I was

delighted to receive an update from Aurora Energy informing me that they will now be publishing on their website their Modern Slavery Policy and Modern Slavery Supplier Code of Conduct, and both of those documents can now be found on the Aurora website under their Corporate Governance section. This voluntary uptake of my suggestion at the time is a fair indication of the recognition that keeping the Tasmanian public updated on these efforts is part and parcel of good corporate governance practice. To put it bluntly, if it is good enough for Aurora Energy to accept this responsibility and make this effort, it is good enough for the other Tasmanian state-owned companies and GBEs to do likewise. Requiring an update being included in annual reports as well will also ensure that corporate governance reporting is comprehensive and rigorous.

Furthermore, as stakeholders in these financial entities, it is the responsibility of the government of the day to support these efforts by making it a clear policy position that mandatory modern slavery policies and compliance reporting are made readily accessible to the Tasmanian community as much as federal regulators, and that proposal is at the heart of the motion that we all - the Tasmanian Government, parliament and community - take on our share of responsibility of ensuring that Tasmania's financial companies operating under our aegis, and from which our coffers benefit, have supply chains free of the taint of modern slavery crimes against humanity.

Scrutiny and rigorous public reporting go hand in hand in meeting that responsibility and achieving that goal. It is in that spirit that this motion proposes a small step forward towards fostering a whole-of-society awareness and approach. An excellent start on this is highlighting the responsibilities and the actions taken by Tasmania's state-owned companies and government business enterprises to stand up for universal human rights by digging out any semblance of modern slavery anywhere in their operations and the operations included in their respective supply chains. I commend the motion to the House.

[...]

[12.38 p.m.]

Ms WEBB (Nelson) - Mr President, and I thank the member for Hobart for those thoughtful comments, for taking the time to have a look into the matter and inform yourself about the national act and the register and for the sentiments that you expressed about the importance of the responsibility that we all have to combat modern slavery. I appreciate that contribution.

Thank you to the Government for its response also. It is good to hear. We are all in furious agreement about the need for responsibility here and all best efforts to not just be complying with an act, but also to be giving effect to the intent of that act as best we can, particularly in raising awareness. I appreciate that the Government supports the objects of that national act and is committed to ensuring that those obligations are met. It was not my intention in any way to suggest that they would not be, but it would be lovely to have that more readily available and to fulfil an awareness-raising function publicly in that compliance. Thank you for pointing out potential amendments the Government considered. I do not think it changed the intent of the motion. If there were some minor corrections to be made that made elements of it more accurate, then I appreciate that being on the record, but do not think it changed the intent of the motion. I am a little disappointed the Government would not like to take it that one step further. In the Leader's contribution, the Government did recognise the value of not just reporting to the register and having it available on that website. As I said in my

contribution, people will only know to go there to look if they were already aware of this issue. It does not fulfil a broadening of public awareness by just having things reported on that website.

Having them on the website of the entity doing the reporting - in this case state-owned entities - is a really positive thing because people can encounter them more readily and freely just in interacting with that website for other purposes. They do not already have to know about modern slavery and reporting to find a register. If the Government recognises that is a positive thing, I do not see why it would not also be a positive thing for those entities to include visibility of that in their annual reports.

Again, there is nothing really additional they would need apart from simply including some comments or some reporting of that. It then becomes a further awareness-raising public education function to give that extra visibility. People encounter annual reports of these entities in all kinds of ways. When we are doing our scrutiny, we look and significantly interact with them. Even if it was just for the better education and awareness of members of this place, that would be given a good function through inclusion in annual reports.

I do not know there is any good reason not to want to see that occur or to think that is a particularly onerous for businesses to do. I would think that it is a really positive message to be putting into the public domain, whether it is through websites or annual reports. Both, because these are responsibilities and efforts that can be applauded when organisations and, particularly, where state-owned entities are meeting their obligations. Making these efforts is a really positive thing for us to point to and be building awareness of.

I hope the Government supports the motion in its intents. We will see we agree on the principles that sit behind and the fact broader public awareness and education in this area is well served by visibility.

Motion agreed to.