

# Modern Slavery Act 2018 No 30

[2018-30]



New South Wales

## Status Information

### Currency of version

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Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **Note**

Amending provisions are subject to automatic repeal pursuant to sec 30C of the [Interpretation Act 1987 No 15](#) once the amendments have taken effect.

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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# Modern Slavery Act 2018 No 30



New South Wales

An Act to make provision with respect to slavery, slavery-like practices and human trafficking and to provide for the appointment and functions of an Anti-slavery Commissioner; and for other purposes.

## Part 1 Preliminary

### 1 Name of Act

This Act is the *Modern Slavery Act 2018*.

### 2 Commencement

This Act commences on 1 January 2022.

### 3 Objects of Act

The objects of this Act are as follows—

- (a) to combat modern slavery,
- (b) to provide assistance and support for victims of modern slavery,
- (c) to provide for an Anti-slavery Commissioner,
- (d) to provide for detection and exposure of modern slavery that may have occurred or be occurring or that is likely to occur,
- (e) to raise community awareness of, and provide for education and training about, modern slavery,
- (f) to encourage collaborative action to combat modern slavery,
- (g) to provide for the assessment of the effectiveness and appropriateness of laws prohibiting modern slavery and to improve the implementation and enforcement of such laws,
- (h) to provide for mandatory reporting of risks of modern slavery occurring in the supply chains of government agencies,

- (i) to make forced marriage of a child and certain slavery and slavery-like conduct offences in New South Wales,
- (j) to further penalise involvement in cybersex trafficking by making it an offence to administer a digital platform for the purpose of child abuse material or encourage another person to use a digital platform to deal with child abuse material,
- (k) to provide for education, training and guidance about identifying and addressing modern slavery taking place within supply chains of organisations.

#### 4 Extraterritorial application

- (1) It is the intention of the Parliament that this Act apply within the State and outside the State to the full extent of the extraterritorial legislative capacity of the Parliament.
- (2) Without limiting subsection (1), it is the intention of the Parliament that the operation of this Act is, as far as possible, to include operation in relation to the following—
  - (a) things situated in or outside the territorial limits of this State,
  - (b) acts, transactions and matters done, entered into or occurring in or outside the territorial limits of this State,
  - (c) things, acts, transactions and matters (wherever situated, done, entered into or occurring) that would, apart from this Act, be governed or otherwise affected by the law of another jurisdiction.

#### 5 Definitions

- (1) In this Act—

**Commissioner** means the Anti-slavery Commissioner appointed under Part 2.

**Commonwealth Criminal Code** means the *Criminal Code* set out in the Schedule to the *Criminal Code Act 1995* of the Commonwealth.

**forced labour** has the meaning it has in section 270.6 of the Commonwealth Criminal Code.

**function** includes a power, authority or duty, and **exercise** a function includes perform a duty.

**government agency** means any of the following—

- (a) a government sector agency (within the meaning of the *Government Sector Employment Act 2013*),
- (b) a NSW Government agency,
- (c), (d) (Repealed)

- (e) a council, county council or joint organisation within the meaning of the *Local Government Act 1993*,
- (f) any other public or local authority that is constituted by or under an Act or that exercises public functions,
- (g) any public or local authority that is constituted by an Act of another jurisdiction that exercises public functions.

**modern slavery** includes the following—

- (a) any conduct constituting a modern slavery offence,
- (b) any conduct involving the use of any form of slavery, servitude or forced labour to exploit children or other persons taking place in the supply chains of organisations.

**Modern Slavery Committee** means the joint committee called the Modern Slavery Committee constituted under this Act.

**modern slavery offence** means the following—

- (a) an offence described in Schedule 2,
- (b) an offence of attempting, or of incitement, to commit an offence described in Schedule 2,
- (c) conduct engaged in elsewhere than in New South Wales that, if it occurred in New South Wales, would constitute a modern slavery offence under paragraph (a) or (b).

**organisation** includes a government agency and a commercial organisation.

**Presiding Officer** means the President of the Legislative Council or the Speaker of the Legislative Assembly. However—

- (a) if there is a vacancy in the office of President, the reference to the President is a reference to the Clerk of the Legislative Council, or
- (b) if there is a vacancy in the office of Speaker, the reference to the Speaker is a reference to the Clerk of the Legislative Assembly.

**servitude** has the meaning it has in section 270.4 of the Commonwealth Criminal Code.

**slavery** has the meaning it has in section 270.1 of the Commonwealth Criminal Code.

**strategic plan**—see section 11.

**Note—**

The [Interpretation Act 1987](#) contains definitions and other provisions that affect the interpretation and application of this Act.

- (2) Notes included in this Act do not form part of this Act.
- (3) A reference in this Act to a government agency of the State is a reference to a government agency other than a public or local authority constituted by an Act of another jurisdiction.

## **Part 2 Anti-slavery Commissioner**

### **Division 1 Appointment of Commissioner**

#### **6 Appointment of Anti-slavery Commissioner**

- (1) The Governor may appoint an Anti-slavery Commissioner.
- (2) The Commissioner holds office for the term, not exceeding 5 years, specified in the instrument of appointment, but is eligible for re-appointment.
- (3) A person is not eligible to be appointed for more than 2 terms of office as Commissioner, whether or not consecutive terms.
- (4) The office of Commissioner is a full-time office and the holder of the office is required to hold it on that basis, except to the extent permitted by the Minister.

#### **6A Employment and remuneration**

- (1) The employment of the Commissioner is, subject to this Act, to be governed by a contract of employment between the Commissioner and the Minister.
- (2) The following provisions of, or made under, the [Government Sector Employment Act 2013](#) relating to the employment of Public Service senior executives apply to the Commissioner, but in the application of those provisions a reference to the employer of a Public Service senior executive is to be read as a reference to the Minister—
  - (a) provisions relating to the band in which an executive is to be employed,
  - (b) provisions relating to the contract of employment of an executive,
  - (c) provisions relating to the remuneration, employment benefits and allowances of an executive.
- (3) The office of Commissioner is a statutory office and the provisions of the [Government Sector Employment Act 2013](#) relating to the employment of Public Service employees do not apply to that office, except as provided by this section.

#### **6B Vacancy in office**

- (1) The office of Commissioner becomes vacant if the Commissioner—



- (a) dies, or
  - (b) completes a term of office and is not re-appointed, or
  - (c) resigns the office by instrument in writing addressed to the Minister, or
  - (d) is removed from office by the Governor under section 6C, or
  - (e) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with the Commissioner's creditors or makes an assignment of the Commissioner's remuneration for their benefit, or
  - (f) becomes a mentally incapacitated person, or
  - (g) is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable, or
  - (h) is imprisoned in respect of a conviction for an offence punishable in New South Wales by imprisonment or for an offence committed elsewhere than in New South Wales that, if committed in New South Wales, would be an offence so punishable.
- (2) If the office of Commissioner becomes vacant, a person is, subject to this Act, to be appointed to fill the vacancy.

#### **6C Removal from office**

- (1) The Governor may remove the Commissioner from office, but only for incompetence, incapacity or misbehaviour.
- (2) The Commissioner cannot be removed from office under the [Government Sector Employment Act 2013](#), Part 6.

#### **6D Acting Commissioner**

- (1) The Minister may appoint a person to act as the Commissioner during the illness or absence of the Commissioner or during a vacancy in the office of Commissioner.
- (2) A person, while acting as Commissioner, has and may exercise the functions of the Commissioner and is taken to be the Commissioner.
- (3) The Minister may, at any time, remove a person from office as acting Commissioner.
- (4) An acting Commissioner is entitled to be paid the remuneration, including travelling and subsistence allowances, that the Minister may from time to time determine.
- (5) A person must not be appointed to act as the Commissioner for a period that exceeds 6 months or that in total exceeds 6 months in any 12-month period.

## **7 Independence of Commissioner**

The Commissioner is not subject to the control and direction of the Minister in respect of the exercise of the Commissioner's functions under this Act.

## **8 Staff of Commissioner**

- (1) Persons may be employed in the Public Service under the *Government Sector Employment Act 2013* to enable the Commissioner to exercise the Commissioner's functions.
- (2) The Commissioner may arrange for the use of the services of any staff or facilities of a government agency and may, with the approval of the Minister, engage such consultants or contractors as are necessary for the purposes of this Act.

## **Division 2 Functions of Commissioner**

### **9 General functions of Commissioner**

- (1) The functions of the Commissioner are as follows—
  - (a) to advocate for and promote action to combat modern slavery,
  - (b) to identify and provide assistance and support for victims of modern slavery,
  - (c) to make recommendations and provide information, advice, education and training about action to prevent, detect, investigate and prosecute offences involving modern slavery,
  - (d) to co-operate with or work jointly with persons and organisations to combat modern slavery and provide assistance and support to victims of modern slavery,
  - (e) to monitor reporting concerning risks of modern slavery occurring in supply chains of government agencies,
  - (f) to monitor the effectiveness of legislation and governmental policies and action in combating modern slavery,
  - (g) to raise community awareness of modern slavery,
  - (h) to exercise such other functions as are conferred or imposed on the Commissioner by or under this or any other Act.
- (2) In exercising the Commissioner's functions, the Commissioner must encourage good practice in—
  - (a) the prevention, detection, investigation and prosecution of modern slavery, and
  - (b) the identification of victims of modern slavery.

- (3) Unless the contrary intention appears, the Commissioner's functions may be exercised with respect to any government agency, person, matter or thing (whether or not they are in or of, or for, the State), so long as the function is exercised in relation to a matter to which this section relates.

#### **10 Restriction on exercise of functions**

- (1) The Commissioner does not generally have the function of investigating or dealing directly with the complaints or concerns of individual cases but may take them into account and draw conclusions about them solely for the purpose of, or in the context of, considering a general issue.
- (2) The Commissioner may, despite subsection (1), provide individuals and their families, friends and advocates with information about and referral to government and non-government programs and services.

#### **11 Strategic plan**

- (1) In this section—

***strategic plan*** means a plan setting out how the Commissioner proposes to exercise the Commissioner's functions in the period to which the plan relates.

- (2) The Commissioner must, as soon as reasonably practicable after the Commissioner's appointment, prepare a strategic plan.
- (3) The strategic plan is to be prepared in consultation with the Minister.
- (4) A strategic plan must—
  - (a) state the period (not being less than one year or more than 3 years) to which it relates, and
  - (b) outline the Commissioner's key objectives and priorities for that period.
- (5) In particular, and without limiting subsection (4) (b), the plan must address the following—
  - (a) a strategy to combat human trafficking in accordance with the *National Action Plan to Combat Modern Slavery 2020-25* launched by the Assistant Minister for Customs, Community Safety and Multicultural Affairs on 9 December 2020,
  - (b) strategies for raising public awareness about modern slavery and providing education and training about combating modern slavery.
- (6) A new strategic plan may be made in accordance with this section to replace an earlier strategic plan.
- (7) The Commissioner is to cause a copy of the strategic plan (and any replacement

strategic plan) to be published on a publicly accessible website.

## **12 Commissioner's public awareness and advice functions generally**

The Commissioner is—

- (a) to promote public awareness of modern slavery and its effects on its victims, and
- (b) to provide advice, education and training on ways to prevent modern slavery taking place and assist the victims of modern slavery, and
- (c) to encourage reporting of instances of suspected modern slavery to appropriate authorities (including without limitation reporting by sex workers and bodies or organisations representing sex workers), and
- (d) to establish and maintain a hotline (or utilise a hotline maintained by another person or body) for provision of advice and assistance to children and other persons who are, or may be, victims of modern slavery.

## **13 Referral of matters to police and other agencies in the State and elsewhere**

- (1) This section applies to any information obtained by the Commissioner in the course of exercising the Commissioner's functions, being reports or other information relating to modern slavery or suspected instances of modern slavery.
- (2) The Commissioner may refer any such information to the Commissioner of Police, the Ombudsman, the Secretary of the Department of Communities and Justice or any other investigative or government agency (whether or not they are in or of the State) that the Commissioner considers appropriate.
- (3) In exercising the Commissioner's functions, the Commissioner may work in co-operation with educational institutions, bodies and organisations representing the interests of any industry and such other persons, bodies and organisations as the Commissioner thinks appropriate.
- (4) Information may be referred in accordance with this section despite the [Privacy and Personal Information Protection Act 1998](#) and the [Health Records and Information Privacy Act 2002](#) but only to the extent that it is relevant to the exercise of a function of the Commissioner under this Act.

## **14 Co-operation between the Commissioner and New South Wales agencies**

- (1) Government agencies of the State and persons and bodies that provide services to, or advocate for, victims of modern slavery in the State must work in co-operation with the Commissioner in the exercise of the Commissioner's functions.
- (2) The duty to co-operate includes the following duties—
  - (a) the duty to disclose information that is likely to be of assistance to the

Commissioner or an agency in the exercise of functions imposed on the Commissioner or agency with respect to modern slavery and victims of modern slavery,

- (b) the duty to provide reasonable assistance and support to the Commissioner or an agency in connection with the exercise by the Commissioner or an agency of functions with respect to modern slavery and victims of modern slavery.
- (3) Arrangements may be made by the Minister with the Minister to whom a government agency is responsible to secure such co-operation, including in connection with the provision by the agency of information (or access to documents) required by the Commissioner in relation to services or issues affecting the victims.
- (4) A reference in this section to the provision of access to documents includes a reference to the provision of copies of documents.
- (5) Information must be provided in accordance with this section despite the *Privacy and Personal Information Protection Act 1998* and the *Health Records and Information Privacy Act 2002* but only to the extent that it is relevant to the exercise of a function of the Commissioner under this Act.

#### **15 Co-operation with other persons and organisations**

- (1) In exercising the Commissioner's functions, the Commissioner may work in co-operation with the persons and organisations that the Commissioner thinks appropriate.
- (2) The Commissioner may consult with, and disseminate information to, the persons and organisations that the Commissioner thinks appropriate.

#### **16 Personal liability—co-operation with Commissioner**

- (1) No criminal or civil liability, apart from under this Act, attaches to a person for the following—
  - (a) compliance, or purported compliance in good faith, with a requirement made under this Act,
  - (b) providing information to the Commissioner.
- (2) Without limiting subsection (1), if a person provides information, a document or other thing to the Commissioner, no civil liability attaches to the person for doing so, whether the liability would arise under a contract or otherwise.
- (3) If information, a document or other thing is provided to the Commissioner, no liability for defamation or other civil liability is incurred because of the provision of the information, document or thing.

### **16A Personal liability—Commissioner and others**

- (1) A matter or thing done or omitted to be done by the Commissioner or a person acting under the direction of the Commissioner does not, if the matter or thing was done or omitted to be done in good faith for the purpose of exercising a function under this Act or under another law, subject the Commissioner or person so acting personally to an action, liability, claim or demand.
- (2) However, the liability attaches instead to the Crown.

### **17 Incidental powers**

The Commissioner has power to do all things necessary to be done for or in connection with, or reasonably incidental to, the exercise of the Commissioner's functions. Any specific powers conferred on the Commissioner by this Act are not taken to limit by implication the generality of this section.

### **18 Delegation**

The Commissioner may delegate any of the Commissioner's functions (other than this power of delegation) to a member of the staff of the Commissioner or to a person of a class prescribed by the regulations.

## **Division 3 Reports by Commissioner**

### **19 Annual and other reports to Parliament**

- (1) The Commissioner is required to prepare, within the period of 4 months after 30 June in each year, a report of the Commissioner's operations during the year ended on that 30 June and furnish the report to the Minister. The report is to be furnished to the Presiding Officer of each House of Parliament within 14 sitting days after it is given to the Minister.
- (2) A report by the Commissioner under this section must include the following—
  - (a) a description of the Commissioner's activities during that year in relation to each of the Commissioner's functions,
  - (b) a review of progress on implementation of the strategic plan relevant to the period to which the report relates,
  - (c) an evaluation of the response of relevant government agencies to the recommendations of the Commissioner,
  - (d) any recommendations for changes in the laws of the State, or for administrative action, that the Commissioner considers should be made as a result of the exercise of the Commissioner's functions.
- (3) In particular, and without limiting subsection (2) (c), the report is to include a review

of the following—

- (a) the extent to which the government of NSW has provided mandatory training on modern slavery to front-line government agencies and the public generally during the year,
  - (b) the extent to which the government of NSW has implemented changes in the information and communications technology use policies applicable to government agencies to prohibit the viewing of child abuse material and provided clear guidelines for responding to failures to comply with those policies during the year,
  - (c) action by the Department of Communities and Justice during the year to develop a system of support (including provision of accommodation) for victims of forced under-age marriage, irrespective of whether any offence against the victim has been prosecuted.
- (4) The Commissioner may, at any time, make a report on any particular issue or general matter relating to the Commissioner's functions and furnish the report to the Minister who is to furnish the report to the Presiding Officer of each House of Parliament.
- (5) The Commissioner is to make a special report to the Minister on any particular issue or general matter requested by the Minister. The special report may be furnished by the Minister to the Presiding Officer of each House of Parliament.

## **20 Reports under [Children and Young Persons \(Care and Protection\) Act 1998](#) and [Crimes Act 1900](#)**

- (1) Information obtained by the Commissioner while exercising the Commissioner's functions may be used for the following purposes—
- (a) making a report to the Secretary of the Department of Communities and Justice under the [Children and Young Persons \(Care and Protection\) Act 1998](#), section 24,
  - (b) bringing information to the attention of a member of the NSW Police Force that might be of material assistance in securing the apprehension of an offender, or the prosecution or conviction of an offender, for a child abuse offence within the meaning of the [Crimes Act 1900](#), section 316A.
- (2) The Commissioner must use the information for those purposes if the Commissioner has reasonable grounds to suspect that a child or young person, or a class of children or young persons, is at risk of significant harm.

## **Division 4 Modern Slavery Committee**

### **21 Constitution of Committee**

- (1) On the commencement of this Division and as soon as practicable after the

commencement of the first session of each Parliament, a joint committee of members of Parliament, to be known as the Modern Slavery Committee, is to be appointed.

- (2) The Modern Slavery Committee has the functions conferred or imposed on it by or under this or any other Act.

## **22 Functions of Committee**

- (1) The Modern Slavery Committee has the following functions under this Act—
  - (a) to inquire into and report on matters relating to modern slavery,
  - (b) to report to both Houses of Parliament on matters relating to modern slavery.
- (2) Nothing in this Division authorises the Modern Slavery Committee to investigate a matter relating to particular conduct.
- (3) The Commissioner may, as soon as practicable after a report of the Modern Slavery Committee has been tabled in a House of Parliament, make and furnish to the Presiding Officer of that House a report in response to the report of the Committee.

## **23 Membership of Committee**

- (1) The Modern Slavery Committee is to consist of 8 members, of whom—
  - (a) 4 are to be members of, and appointed by, the Legislative Council, and
  - (b) 4 are to be members of, and appointed by, the Legislative Assembly.
- (2) The appointment of members of the Committee is, as far as practicable, to be in accordance with the practice of Parliament with respect to the appointment of members to serve on joint committees of both Houses of Parliament.
- (3) A person is not eligible for appointment as a member of the Modern Slavery Committee if the person is a Minister of the Crown or a Parliamentary Secretary.
- (4) Schedule 1 contains provisions relating to the Modern Slavery Committee.

## **Part 3 Supply chains**

### **24 (Repealed)**

### **25 Government agency procurement**

The Commissioner must regularly consult with the Auditor-General and the NSW Procurement Board to monitor the effectiveness of due diligence procedures in place to ensure that goods and services procured by government agencies are not the product of modern slavery.

### **25A State owned corporations must make voluntary modern slavery statements if not**



**already required**

- (1) This section applies to a State owned corporation that is not a reporting entity within the meaning of the *Modern Slavery Act 2018* of the Commonwealth.

**Note—**

See the *Modern Slavery Act 2018* of the Commonwealth, section 5 for the meaning of “reporting entity” under that Act.

- (2) A State owned corporation to which this section applies must volunteer to comply with the requirements of the *Modern Slavery Act 2018* of the Commonwealth, as referred to in that Act, section 6, if it is eligible to do so.

**Note—**

A corporation that volunteers under the *Modern Slavery Act 2018* of the Commonwealth, section 6 is a reporting entity for the purposes of that Act.

- (3) A State owned corporation that has volunteered under subsection (2) must not revoke a notice given under the *Modern Slavery Act 2018* of the Commonwealth, section 6.

**25B State owned corporations must publish Commonwealth modern slavery statements**

As soon as is practicable after giving the Minister, within the meaning of the *Modern Slavery Act 2018* of the Commonwealth, a modern slavery statement under that Act, a State owned corporation must—

- (a) publish a copy of the modern slavery statement on a publicly accessible website kept by the corporation, and
- (b) give the Commissioner written notice that the statement has been published.

**26 Public register**

- (1) The Commissioner is to keep a register in electronic form that—
  - (a), (b) (Repealed)
  - (c) identifies any government agency failing to comply with directions of the NSW Procurement Board under section 175 of the *Public Works and Procurement Act 1912* concerning procurement (within the meaning of Part 11 of that Act) of goods and services that are the product of modern slavery and whether the government agency has taken steps to ensure compliance in the future, and
  - (c1) identifies any State owned corporation that has failed to provide the Minister, within the meaning of the *Modern Slavery Act 2018* of the Commonwealth, with a modern slavery statement for a reporting period under that Act, and
  - (d) includes other information the Commissioner thinks appropriate, and
  - (e) includes other information required by the regulations to be recorded on the

register.

- (2) The Commissioner is to make the register publicly available free of charge.
- (3) The regulations may—
  - (a) require government agencies to give specified information to the Commissioner for inclusion on the register, and
  - (b) specify the way the information is to be given to the Commissioner.

## **27 Codes of practice**

- (1) The Commissioner may develop, and make publicly available, codes of practice for the purpose of providing guidance in identifying modern slavery taking place within the supply chains of organisations and steps that can be taken to remediate or monitor identified risks.
- (2) A code of practice may refer to or incorporate, with or without modification, a standard or other document prepared or published by a body specified in the code, as in force at a particular time or from time to time.

## **28 Commissioner's public awareness and advice functions—supply chains**

- (1) The Commissioner may promote public awareness of and provide advice on steps that can be taken by organisations to remediate or monitor risks of modern slavery taking place in their supply chains, including encouraging organisations to develop their capacity to avoid such risks.
- (2) Without limiting subsection (1), the Commissioner may make information available to organisations and other persons about matters to consider in relation to employing persons to work in supply chains.

## **Part 4**

### **29 (Repealed)**

## **Part 5 Miscellaneous**

### **30 Act to bind Crown**

This Act binds the Crown in right of New South Wales and, in so far as the legislative power of the Parliament of New South Wales permits, the Crown in all its other capacities.

### **31 Annual reports**

- (1) The annual reporting information for a GSF agency under the *Government Sector Finance Act 2018* is to include the following matters—
  - (a) a statement of the action taken by the agency in relation to any issue raised by

the Anti-slavery Commissioner during the financial year then ended concerning the operations of the agency and identified by the Commissioner as being a significant issue,

(b) a statement of steps taken to ensure that goods and services procured by and for the agency during the financial year then ended were not the product of modern slavery within the meaning of the *Modern Slavery Act 2018*.

(2) This section commences on the commencement of Part 7.3 of the *Government Sector Finance Act 2018*.

### **32 Expenditure under this Act**

Any expenditure incurred in the administration or execution of this Act by the State is to be paid out of money to be provided by Parliament.

### **33 Nature of proceedings for offences**

Proceedings for an offence under this Act or the regulations may be dealt with summarily before the Local Court.

### **34 Regulations**

- (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) The regulations may create an offence punishable by a penalty not exceeding 50 penalty units.

### **35 Commissioner of Police to provide certain information**

- (1) The Commissioner of Police is, on request or in accordance with arrangements with the Commissioner, to provide the Commissioner with information regarding modern slavery and victims of modern slavery.
- (2) The Commissioner is not to disclose information provided under this section except with the written consent of the Commissioner of Police.
- (3) The Commissioner of Police is not required to provide information under this section if the Commissioner of Police reasonably believes that to do so would—
  - (a) prejudice the investigation of a contravention, or possible contravention, of a law in a particular case, or
  - (b) prejudice a coronial inquest or inquiry, or
  - (c) prejudice care proceedings, or

- (d) contravene legal professional or client legal privilege, or
  - (e) enable the existence or identity of a confidential source of information in relation to the enforcement or administration of a law to be ascertained, or
  - (f) endanger a person's life or physical safety, or
  - (g) prejudice the effectiveness of a lawful method or procedure for preventing, detecting, investigating or dealing with a contravention, or possible contravention, of a law, or
  - (h) not be in the public interest.
- (4) If the Commissioner of Police refuses to provide information in accordance with a request or arrangements under this section, the Commissioner of Police must, at the time the Commissioner of Police notifies the Commissioner of the refusal, provide the Commissioner with reasons in writing for the refusal.

### **36 Review of Act**

- (1) The Modern Slavery Committee—
- (a) is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing the objectives, and
  - (b) while undertaking the review, may investigate any other related matter the Committee considers appropriate.
- (2) The review is to be undertaken as soon as possible after the period of 12 months from the commencement of this Act.
- (3) A report on the outcome of the review and related investigations is to be tabled in each House of Parliament within 24 months from the commencement of this Act.

## **Schedule 1 Modern Slavery Committee**

(Section 23 (4))

### **1 Definition**

In this Schedule, **Committee** means the Modern Slavery Committee.

### **2 Vacancies**

- (1) A member of the Committee ceases to hold office—
- (a) when the Legislative Assembly is dissolved or expires by the effluxion of time, or
  - (b) if the member becomes a Minister of the Crown or a Parliamentary Secretary, or

- (c) if the member ceases to be a member of the Legislative Council or Legislative Assembly, or
- (d) if, being a member of the Legislative Council, the member resigns the office by instrument in writing addressed to the President of the Legislative Council, or
- (e) if, being a member of the Legislative Assembly, the member resigns the office by instrument in writing addressed to the Speaker of the Legislative Assembly, or
- (f) if the member is discharged from office by the House of Parliament to which the member belongs.

(2) Either House of Parliament may appoint one of its members to fill a vacancy among the members of the Committee appointed by that House.

### **3 Chair and Deputy Chair**

- (1) There is to be a Chair and a Deputy Chair of the Committee, who are to be elected by and (subject to subclause (2)) from the members of the Committee.
- (2) The Chair must not be a member of a party that has been elected to Government.
- (3) A member of the Committee ceases to hold office as Chair or Deputy Chair of the Committee if—
  - (a) the member ceases to be a member of the Committee, or
  - (b) the member resigns the office by instrument in writing presented to a meeting of the Committee, or
  - (c) the member is discharged from office by the Committee.
- (4) At any time when the Chair is absent from New South Wales or is, for any reason, unable to perform the duties of Chair or there is a vacancy in that office, the Deputy Chair may exercise the functions of the Chair under this Act or under the [Parliamentary Evidence Act 1901](#).

### **4 Procedure**

- (1) The procedure for the calling of meetings of the Committee and for the conduct of business at those meetings is, subject to this Act, to be as determined by the Committee.
- (2) The Clerk of the Parliaments is to call the first meeting of the Committee, and the first meeting of the Committee in each Parliament, in such manner as the Clerk thinks fit.
- (3) At a meeting of the Committee, 4 members constitute a quorum, but the Committee must meet as a joint committee at all times.

- (4) The Chair or, in the absence of the Chair, the Deputy Chair (or, in the absence of both the Chair and the Deputy Chair, a member of the Committee elected to chair the meeting by the members present) is to preside at a meeting of the Committee.
- (5) The Deputy Chair or other member presiding at a meeting of the Committee has, in relation to the meeting, all the functions of the Chair.
- (6) The Chair, Deputy Chair or other member presiding at a meeting of the Committee has a deliberative vote and, in the event of an equality of votes, also has a casting vote.
- (7) A question arising at a meeting of the Committee is to be determined by a majority of the votes of the members present and voting.
- (8) The Committee may sit and transact business despite any prorogation of the Houses of Parliament or any adjournment of either House of Parliament.
- (9) The Committee may sit and transact business on a sitting day of a House of Parliament during the time of sitting.
- (10) Except as otherwise provided by this Act, the practice and procedure of the Committee is to be in accordance with the Standing Rules and Orders of the Legislative Council regulating the committees of the House.

## **5 Reporting when Parliament not in session**

- (1) If a House of Parliament is not sitting when the Committee seeks to furnish a report to it, the Committee may present copies of the report to the Clerk of the House.
- (2) The report—
  - (a) on presentation and for all purposes is taken to have been laid before the House, and
  - (b) may be printed by authority of the Clerk, and
  - (c) if printed by authority of the Clerk, is for all purposes taken to be a document published by or under the authority of the House, and
  - (d) is to be recorded in the Minutes, or Votes and Proceedings, of the House on the first sitting day of the House after receipt of the report by the Clerk.

## **6 Evidence**

- (1) The Committee has power to send for persons, papers and records.
- (2) Subject to clause 7, the Committee must take all evidence in public.
- (3) If the Committee as constituted at any time has taken evidence in relation to a matter

but the Committee as so constituted has ceased to exist before reporting on the matter, the Committee as constituted at any subsequent time, whether during the same or another Parliament, may consider that evidence as if it had taken the evidence.

- (4) The production of documents to the Committee is to be in accordance with the practice of the Legislative Council with respect to the production of documents to committees of the Legislative Council.

## **7 Confidentiality**

- (1) If any evidence proposed to be given before, or the whole or a part of a document produced or proposed to be produced to, the Committee relates to a secret or confidential matter, the Committee may, and at the request of the witness giving the evidence or the person producing the document must—
- (a) take the evidence in private, or
  - (b) direct that the document, or the part of the document, be treated as confidential.
- (2) If a direction under subclause (1) applies to a document or part of a document produced to the Committee—
- (a) the contents of the document or part are, for the purposes of this clause, to be regarded as evidence given by the person producing the document or part and taken by the Committee in private, and
  - (b) the person producing the document or part is, for the purposes of this clause, to be regarded as a witness.
- (3) If, at the request of a witness, evidence is taken by the Committee in private—
- (a) the Committee must not, without the consent in writing of the witness, and
  - (b) a person (including a member of the Committee) must not, without the consent in writing of the witness and the authority of the Committee under subclause (5), disclose or publish the whole or a part of that evidence.

Maximum penalty—20 penalty units or imprisonment for 3 months, or both.

- (4) If evidence is taken by the Committee in private otherwise than at the request of a witness, a person (including a member of the Committee) must not, without the authority of the Committee under subclause (5), disclose or publish the whole or part of that evidence.

Maximum penalty—20 penalty units or imprisonment for 3 months, or both.

- (5) The Committee may, in its discretion, disclose or publish or, by writing under the hand

of the Chair, authorise the disclosure or publication of evidence taken in private by the Committee, but this subclause does not operate so as to affect the necessity for the consent of a witness under subclause (3).

(6) Nothing in this clause prohibits—

(a) the disclosure or publication of evidence that has already been lawfully published, or

(b) the disclosure or publication by a person of a matter of which the person has become aware otherwise than by reason, directly or indirectly, of the giving of evidence before the Committee.

(7) This clause has effect despite section 4 of the *Parliamentary Papers (Supplementary Provisions) Act 1975*.

(8) If evidence taken by the Committee in private is disclosed or published in accordance with this clause, sections 5 and 6 of the *Parliamentary Papers (Supplementary Provisions) Act 1975* apply to and in relation to the disclosure or publication as if it were a publication of that evidence under the authority of section 4 of that Act.

**Note—**

The *Defamation Act 2005* makes provision for 2 defences in respect of the publication of defamatory matter that is contained in evidence taken by, or documents produced to, the Committee in private, but only if the evidence or documents have been disclosed or published in accordance with this clause.

Section 28 of the *Defamation Act 2005* (when read with clause 8 of Schedule 2 to that Act) ensures that such documents attract the defence relating to public documents in defamation proceedings.

Section 29 of the *Defamation Act 2005* (when read with clause 17 of Schedule 3 to that Act) ensures that proceedings in which such evidence is taken or documents produced attract the defences relating to fair reports of proceedings of public concern in defamation proceedings.

## **8 Application of certain Acts**

For the purposes of the *Parliamentary Evidence Act 1901* and the *Parliamentary Papers (Supplementary Provisions) Act 1975* and for any other purposes—

(a) the Committee is to be regarded as a joint committee of the Legislative Council and Legislative Assembly, and

(b) the proposal for the appointment of the Committee is to be regarded as having originated in the Legislative Council.

## **9 Validity of certain acts or proceedings**

Any act or proceeding of the Committee is, even though at the time when the act or proceeding was done, taken or commenced there was—

(a) a vacancy in the office of a member of the Committee, or



(b) any defect in the appointment, or any disqualification, of a member of the Committee, as valid as if the vacancy, defect or disqualification did not exist and the Committee were fully and properly constituted.

## Schedule 2 Offences

(Section 5)

An offence against the following sections of the *Crimes Act 1900*—

Section	Description of offence
80D	Causing sexual servitude
80E	Conduct of business involving sexual servitude
91G (1) and (2)	Children not to be used for production of child abuse material
91G (3)	Aggravated offence of using children for production of child abuse material
91H	Production, dissemination or possession of child abuse material
91HAA	Administering a digital platform used to deal with child abuse material
93AA-93AC	Slavery and slavery-like offences

An offence against the following section of the *Human Tissue Act 1983*—

Section	Description of offence
32, but only in relation to tissue that is an organ	Trading in tissue prohibited

An offence against any of the following sections of the Commonwealth Criminal Code—

Section	Description of offence
270.3	Slavery offences
270.5	Servitude offences
270.6A	Forced labour offences
270.7	Deceptive recruiting for labour or services
270.7B	Forced marriage offences
270.7C	Offence of debt bondage
270.8	Slavery-like offences—aggravated offences
271.2	Offence of trafficking in persons
271.3	Trafficking in persons—aggravated offence

271.4	Offence of trafficking in children
271.5	Offence of domestic trafficking in persons
271.6	Domestic trafficking in persons—aggravated offence
271.7	Offence of domestic trafficking in children
271.7B	Offence of organ trafficking—entry into and exit from Australia
271.7C	Organ trafficking—aggravated offence
271.7D	Offence of domestic organ trafficking
271.7E	Domestic organ trafficking—aggravated offence

## **Schedule 3 Savings, transitional and other provisions**

### **Part 1 General**

#### **1 Regulations**

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the commencement of—
  - (a) a provision of this Act, or
  - (b) a provision amending this Act.
- (2) A savings or transitional provision consequent on the commencement of a provision must not be made more than 2 years after that commencement.
- (3) A savings or transitional provision made consequent on the commencement of a provision is repealed 2 years after that commencement.
- (4) A savings or transitional provision made consequent on the commencement of a provision may take effect before that commencement but not before—
  - (a) for a provision of this Act—the date of assent to this Act, or
  - (b) for a provision amending this Act—the date of assent to the amending Act.
- (5) A savings or transitional provision taking effect before its publication on the NSW legislation website does not—
  - (a) affect the rights of a person existing before the publication in a way prejudicial to the person, or
  - (b) impose liabilities on a person for anything done or omitted to be done before the publication.
- (6) In this clause—

**person** does not include the State or an authority of the State.

## **Schedule 4 Amendment of Crimes Act 1900 No 40**

### **[1] Section 91FA Definitions**

Insert in alphabetical order—

**deal**, in relation to child abuse material, includes any of the following—

- (a) viewing, uploading or downloading child abuse material,
- (b) making child abuse material available for viewing, uploading or downloading,
- (c) facilitating the viewing, uploading or downloading of child abuse material.

### **[2] Section 91G Children not to be used for production of child abuse material**

Insert after section 91G (2)—

- (3) A person is guilty of an offence against this subsection if the person commits an offence against subsection (1) or (2) in circumstances of aggravation.

Maximum penalty—imprisonment for 20 years.

- (3A) In this section, **circumstances of aggravation** means circumstances in which—

- (a) the alleged victim is under 10 years of age, or
- (b) at the time of, or immediately before or after, the commission of the offence, the alleged offender intentionally or recklessly inflicts actual bodily harm on the alleged victim or any other person who is present or nearby, or
- (c) at the time of, or immediately before or after, the commission of the offence, the alleged offender threatens to inflict actual bodily harm on the alleged victim or any other person who is present or nearby by means of an offensive weapon or instrument, or
- (d) the alleged offender is in the company of another person or persons, or
- (e) the alleged victim is, whether generally or at the time of the commission of the offence, under the authority of the alleged offender, or
- (f) the alleged victim has a serious physical disability, or
- (g) the alleged victim has a cognitive impairment, or
- (h) the alleged offender took advantage of the alleged victim being under the influence of alcohol or a drug in order to commit the offence, or

- (i) the alleged offender deprives the alleged victim of his or her liberty for a period before or after the commission of the offence, or
  - (j) the alleged offender breaks and enters into a dwelling-house or other building with the intention of committing the offence or another serious indictable offence.
- (3B) In proceedings for an offence against this section, it is not necessary to prove that the accused knew the age of the child concerned.
- (3C) If on the trial of a person charged with an offence against subsection (3) the trier of fact is not satisfied that the offence is proven but is satisfied that the person has committed an offence against subsection (1) or (2), the trier of fact may acquit the person of the offence charged and find the person guilty of an offence against subsection (1) or (2). The person is liable to punishment accordingly.

**[2A] Section 91HB**

Renumber section 91HAA as section 91HB and move to its appropriate location.

**[3] Sections 91HAA-91HAC**

Insert after section 91H—

**91HAA Administering a digital platform used to deal with child abuse material**

- (1) A person (the **administrator**) is guilty of an offence if—
- (a) the administrator administers, or assists in the administration of, a digital platform, and
  - (b) the digital platform is used by another person to deal with child abuse material, and
  - (c) the administrator—
    - (i) intends that the digital platform be used by another person to deal with child abuse material, or
    - (ii) is aware that the digital platform is being used by another person to deal with child abuse material.

Maximum penalty—imprisonment for 14 years.

- (2) In proceedings for an offence against this section, it is not necessary to prove the identity of the person using the digital platform to deal with child abuse material.

(3) In this section—

**administer**, a digital platform, includes the following—

- (a) design, create, manage or maintain the digital platform, part of the digital platform or a function of the digital platform,
- (b) provide a device to host the digital platform, part of the digital platform or a function of the digital platform,
- (c) facilitate the operation and use of the digital platform, part of the digital platform or a function of the digital platform.

**91HAB Encouraging use of a digital platform to deal with child abuse material**

(1) A person is guilty of an offence if—

- (a) the person is 18 or more years of age, and
- (b) the person encourages another person to use a digital platform, and
- (c) the person intends that other person to use the digital platform to deal with child abuse material.

Maximum penalty—imprisonment for 14 years.

(2) In determining whether a person has encouraged another person to use a digital platform with the intention of the person using it to deal with child abuse material in proceedings for an offence against this section, it is not necessary to prove—

- (a) the identity of the person encouraged to use the digital platform to deal with child abuse material, or
- (b) that another person in fact used the digital platform to deal with child abuse material, or
- (c) if another person did in fact use the digital platform to deal with child abuse material, that it was the defendant's encouragement that caused the person to do so.

**91HAC Providing information about avoiding detection**

(1) A person is guilty of an offence if the person intentionally provides information to another person about how to avoid detection of, or prosecution for, conduct that involves the commission of an offence against section 91HAA or 91HAB.

Maximum penalty—imprisonment for 14 years.

(2) In proceedings for an offence against this section, it is not necessary to prove—

- (a) the identity of the person to whom the information was provided, or
- (b) that the information was actually used by the other person.

**[4] Section 91HA Defences**

Insert after section 91HA (1)—

(1A) **Reasonable steps to prevent dealing with child abuse material** It is a defence in proceedings for an offence against section 91HAA that the defendant, on becoming aware that the digital platform was being used to deal with child abuse material, took all reasonable steps in the circumstances to prevent other persons from being able to use the digital platform to access child abuse material.

**[5] Section 91HA (3), (6) and (7)**

Insert “, 91HAA, 91HAB or 91HAC” after “section 91H”.

**[6] Section 91HA (8)**

Omit “or 91H”. Insert instead “, 91H, 91HAA, 91HAB or 91HAC”.

**[7] Part 3, Division 17**

Insert after section 93—

## **Division 17 Slavery and slavery-like offences**

### **93AA Definitions**

In this Division—

**coercion** includes coercion by any of the following—

- (a) force,
- (b) duress,
- (c) detention,
- (d) psychological oppression,
- (e) abuse of power,
- (f) taking advantage of a person’s vulnerability.

**deceive** means mislead as to fact (including the intention of any person) or as to

law, by words or other conduct.

**threat** means—

- (a) a threat of force, or
- (b) a threat to cause a person's deportation, or
- (c) a threat of any other detrimental action, unless there are reasonable grounds for the threat of that action in connection with provision of labour or services by the person.

### **93AB Slavery, servitude and child forced labour**

(1) A person is guilty of an offence if, in New South Wales—

- (a) the person holds another person in slavery or servitude and the circumstances are such that the person knows or ought to know that the person is held in slavery or servitude, or
- (b) the person requires a child to perform forced or compulsory labour and the circumstances are such that the person knows or ought to know that the child is being required to perform forced or compulsory labour.

Maximum penalty—imprisonment for 25 years.

(2) For the purposes of subsection (1) (b), **forced or compulsory labour** does not include—

- (a) work or service normally required of a child who is under detention because of a court order or who, under a court order of this or another jurisdiction, has been conditionally released from detention or ordered to perform work in the community, or
- (b) work or service required because of an emergency threatening the New South Wales community or a part of the New South Wales community, or
- (c) work or service that forms part of normal civil obligations.

(3) In determining whether a person is being held in slavery or servitude or a child is required to perform forced or compulsory labour, regard may be had to all the circumstances.

(4) For example, regard may be had to the following—

- (a) to any of the person's personal circumstances (such as the person being a child, the person's family relationships, and any mental or physical illness) which may make the person more vulnerable than other persons,

- (b) to any work or services provided by the person, including work or services provided in circumstances which constitute exploitation,
  - (c) the coercion, threat or deception involved,
  - (d) without limiting paragraph (c), whether the person has been coerced, threatened or deceived into doing anything which involves the supply or sale of the person's tissue (within the meaning of the [Human Tissue Act 1983](#)).
- (5) The consent of a person (whether an adult or a child) to any of the acts alleged to constitute holding the person in slavery or servitude, or requiring the child to perform forced or compulsory labour, does not preclude a determination that the person is being held in slavery or servitude, or the child is required to perform forced or compulsory labour.
- (6) In this section—
- servitude** has the meaning it has in section 270.4 of the Commonwealth [Criminal Code](#).
- slavery** has the meaning it has in section 270.1 of the Commonwealth [Criminal Code](#).

### **93AC Child forced marriage**

- (1) In this section—
- child** means a person who is under 18 years of age.
- marriage** includes the following—
- (a) a marriage recognised under the law of a foreign country,
  - (b) a marriage that is void, invalid or not recognised by law for any reason.
- (2) For the purposes of this section, a child enters into a **forced marriage** if—
- (a) the child enters into the marriage without freely and fully consenting—
    - (i) because of the use of coercion, threat or deception, or
    - (ii) because the child was incapable of understanding the nature and effect of the marriage ceremony, or
  - (b) when the marriage is entered into, the child is under 16 years of age.
- (3) A person—
- (a) who causes a child to enter into a forced marriage, and
  - (b) who intends to cause, or is reckless as to causing, that forced marriage,



is guilty of an offence.

Maximum penalty—imprisonment for 9 years.

(4) A person is guilty of an offence if the person—

- (a) enters into a marriage with a child, and
- (b) knows that it is a forced marriage, and
- (c) is not a victim of the forced marriage.

Maximum penalty—imprisonment for 9 years.

(5) For the purposes of subsection (2)(a)(i), the subparagraph applies whether the use of the coercion, threat or deception—

- (a) is by another party to the marriage or by another person, or
- (b) is against the child or another person.

## **Schedule 5 Amendment of other Acts and regulations**

### **5.1 Annual Reports (Departments) Regulation 2015**

#### **Clause 6 Additional matters to be included in annual reports**

Insert after clause 6 (b)—

- (b1) a statement of the action taken by the Department in relation to any issue raised by the Anti-slavery Commissioner during the financial year then ended concerning the operations of the Department and identified by the Commissioner as being a significant issue,
- (b2) a statement of steps taken to ensure that goods and services procured by and for the Department during the financial year then ended were not the product of modern slavery within the meaning of the *Modern Slavery Act 2018*,

### **5.2 Annual Reports (Statutory Bodies) Regulation 2015**

#### **Clause 8 Additional matters to be included in annual reports**

Insert after clause 8 (1) (b)—

- (b1) a statement of the action taken by the body in relation to any issue raised by the Anti-slavery Commissioner during the financial year then ended concerning the operations of the body and identified by the Commissioner as being a significant issue,

- (b2) a statement of steps taken to ensure that goods and services procured by and for the body during the financial year then ended were not the product of modern slavery within the meaning of the *Modern Slavery Act 2018*,

### **5.3 Crimes (Domestic and Personal Violence) Act 2007 No 80**

#### **[1A] Section 3 Definitions**

Insert in alphabetical order in section 3(1)—

**Commonwealth Criminal Code** means the Criminal Code set out in the Schedule to the *Criminal Code Act 1995* of the Commonwealth.

#### **[1] Section 4 Meaning of “personal violence offence”**

Insert after section 4 (b1)—

- (b2) an offence under section 93AC (Child forced marriage) of the *Crimes Act 1900* or the Commonwealth Criminal Code, section 270.7B (Forced marriage offences), or

#### **[2] Section 4 (c)**

Omit “or (b1)”. Insert instead “, (b1) or (b2)”.

#### **[3] Section 7 Meaning of “intimidation”**

Insert at the end of section 7 (1) (c)—

, or

- (d) conduct amounting to the coercion or deception of, or a threat to, a child to enter into a forced marriage within the meaning of the *Crimes Act 1900*, section 93AC, or
- (e) conduct amounting to the coercion or deception of, or a threat to, a person to enter into a forced marriage within the meaning of the Commonwealth Criminal Code, section 270.7A (Definition of forced marriage).

#### **[4] Section 35 Prohibitions and restrictions imposed by apprehended violence orders**

Insert after section 35 (2)—

- (2A) Without limiting the generality of subsection (2)(f), an apprehended violence order may prohibit behaviour of the defendant that might coerce, threaten or deceive the protected person to enter into a forced marriage within the meaning of the *Crimes Act 1900*, section 93AC or the Commonwealth Criminal Code, section 270.7A (Definition of forced marriage).

**[5] Section 40 Interim apprehended violence order must be made on charge for certain offences**

Insert after section 40 (5) (c)—

(c1) an offence under section 93AC (child forced marriage) of the *Crimes Act 1900* or the Commonwealth Criminal Code, section 270.7B (Forced marriage offences), or

**[6] Section 40 (5) (d)**

Omit “or (c)”. Insert instead “, (c) or (c1)”.

**[7] Section 40 (5) (f)**

Insert “(c1),” after “(c),”.

**[8] Section 48 Making of application for an order**

Insert at the end of section 48 (2) (b)—

, or

(c) in the case of a child being subjected to coercion to enter into a forced marriage (within the meaning of section 93AC of the *Crimes Act 1900* or the Commonwealth Criminal Code, section 270.7A (Definition of forced marriage)) for whose protection an order would be made—the Secretary of the Department of Communities and Justice or a person authorised by the Secretary to make applications under this section on the Secretary’s behalf or any other person prescribed by the regulations.

**[9] Section 48 (3)**

Insert “(other than an application under subsection (2) (c))” after “an order”.

**[10] Section 52A**

Insert after section 52—

**52A Commencement of proceedings by Secretary of Department of Communities and Justice**

If an application for an order is made by the Secretary of the Department of Communities and Justice, the Secretary may commence the proceedings by issuing an application notice, signed by a registrar, and filing the notice in accordance with this Division.

**[11] Section 55 Service of application notice**

Insert after section 55 (2)—

- (2A) An application notice issued by the Secretary of the Department of Communities and Justice must be served by a person authorised by the rules in accordance with the rules.

**5.3A Crimes (High Risk Offenders) Act 2006 No 7**

**Section 5 Definitions of “serious sex offence” and “offence of a sexual nature”**

Insert after section 5(2)(a)—

- (a1) an offence under the *Crimes Act 1900*, Part 3, Division 10A,

**5.4 Criminal Assets Recovery Act 1990 No 23**

**Section 6 Meaning of “serious crime related activity”**

Insert after section 6 (2) (h)—

- (h1) an offence under section 93AB (Slavery, servitude and child forced labour) of the *Crimes Act 1900*, or

**5.4A Defamation Act 2005 No 77**

**Schedule 1 Additional publications to which absolute privilege applies**

Insert after clause 34—

**35 Matters arising under Modern Slavery Act 2018**

Without limiting section 27(2)(a)-(c), matter that is published—

- (a) to or by the Anti-slavery Commissioner or an acting Anti-slavery Commissioner in their capacity as the Anti-slavery Commissioner or an acting Anti-slavery Commissioner, or
- (b) to a member of staff of the Anti-slavery Commissioner in their capacity as a member, or
- (c) in a strategic plan under the *Modern Slavery Act 2018*, section 11, or
- (d) in a report under the *Modern Slavery Act 2018*, section 13, 19 or 20, or

(e) in a register under the *Modern Slavery Act 2018*, or

(f) in annual reporting information under the *Modern Slavery Act 2018*, section 31.

## **5.4B Local Government Act 1993 No 30**

### **[1] Section 428 Annual reports**

Insert after section 428(4)(b)—

(c) a statement of the action taken by the council in relation to any issue raised by the Anti-slavery Commissioner during the year concerning the operations of the council and identified by the Commissioner as being a significant issue,

(d) a statement of steps taken to ensure that goods and services procured by and for the council during the year were not the product of modern slavery within the meaning of the *Modern Slavery Act 2018*.

### **[2] Section 438ZE**

Insert after section 438ZD—

#### **438ZE Duty to ensure goods and services procured not product of modern slavery**

A council must take reasonable steps to ensure that goods and services procured by and for the council are not the product of modern slavery within the meaning of the *Modern Slavery Act 2018*.

### **[3] Schedule 8 Savings, transitional and other provisions consequent on the enactment of other Acts**

Insert at the end of the Schedule, with appropriate Part and clause numbering—

## **Part Provisions consequent on enactment of Modern Slavery Amendment Bill 2021**

### **Annual reporting about modern slavery—s 428(4)(c) and (d)**

Section 428(4)(c) and (d) do not apply to a year commencing before 1 July 2022.

### **Duty to ensure goods and services procured not product of modern slavery—s 438ZE**

Section 438ZE does not have effect until 1 July 2022.

## 5.5 Public Finance and Audit Act 1983 No 152

### Part 3, Division 2B

Insert after section 38E—

### Division 2B Modern slavery audit

#### 38F Definitions

In this Division—

**audit** includes examination and inspection.

**government agency** has the same meaning it has in the *Modern Slavery Act 2018*, but does not include a public or local authority that is constituted by an Act of another jurisdiction that exercises public functions.

**modern slavery** has the meaning it has in the *Modern Slavery Act 2018*.

**modern slavery audit** means an audit under this Division.

#### 38G Modern slavery audit by Auditor-General

- (1) The Auditor-General may, when the Auditor-General considers it appropriate to do so, conduct a risk-based audit of all or any particular activities of a government agency to determine whether the government agency is ensuring that goods and services procured by and for the agency are not the product of modern slavery.
- (2) In exercising functions under this section, the Auditor-General is to consider whether the government agency—
  - (a) has exercised due diligence in relation to procurement of goods and services, and
  - (b) if the *Public Works and Procurement Act 1912*, Part 11 applies to the procurement of goods and services by or for the government agency, has complied with the directions of the NSW Procurement Board under section 175(3)(a1) of that Act.

**Note—**

The *Public Works and Procurement Act 1912*, Part 11 does not apply to the procurement of goods and services by or for—

- (a) a local council or other local authority, or
- (b) the Parliament of New South Wales.

See section 163(2) of that Act.

- (3) In subsection (2), due diligence includes taking reasonable steps (whether by way of contractual terms or otherwise) to ensure the primary supplier of goods and services is responsible for implementing processes to eliminate or minimise the risk of the goods or services supplied being products of modern slavery.
- (4) A modern slavery audit is separate from, and does not affect, any other audit required or authorised by or under this or any other Act.
- (5) A single modern slavery audit may relate to the activities of more than one government agency.

### **38H Advice concerning modern slavery audit**

- (1) The Auditor-General is to give the Anti-slavery Commissioner advice as to the result of any modern slavery audit.
- (2) Before giving the advice to the Anti-slavery Commissioner, the Auditor-General is to give the head of the government agency an opportunity to make submissions or comments concerning the modern slavery audit.
- (3) The Auditor-General is to include in the advice any submissions or comments made by the head of the government agency or a summary, in an agreed form, of any such submissions or comments.
- (4) The Auditor-General, in an advice concerning a modern slavery audit under this section—
  - (a) may recommend that the Anti-slavery Commissioner identify the government agency in the register kept under section 26 of the *Modern Slavery Act 2018*, and
  - (b) is to set out the reasons for opinions expressed in the advice, and
  - (c) may include such other recommendations arising out of the audit as the Auditor-General thinks fit to make.

## **5.6 Public Works and Procurement Act 1912 No 45**

### **[1] (Repealed)**

### **[2] Section 171 Objectives of Board**

Insert after section 171 (b)—

(b1) to ensure that goods and services procured by and for government agencies are not the product of modern slavery within the meaning of the *Modern Slavery Act 2018*,

**[3] Section 175 Board may issue directions to government agencies**

Insert after section 175 (3) (a)—

(a1) without limiting paragraph (a), reasonable steps that are to be taken to ensure that goods and services procured by and for government agencies are not the product of modern slavery within the meaning of the *Modern Slavery Act 2018*, and

**[4] Section 175 (4)**

Insert after section 175 (3)—

(4) The Board must regularly consult with the Anti-slavery Commissioner about the form and content of directions that should be issued during the year under subsection (3) (a1) and take into account any recommendations of the Commissioner.

**[5] Section 176 Obligations of government agencies**

Insert after section 176 (1)—

(1A) A government agency must take reasonable steps to ensure that goods and services procured by and for the agency are not the product of modern slavery within the meaning of the *Modern Slavery Act 2018*.

## **5.7 Victims Rights and Support Act 2013 No 37**

**[1] Section 5 Meaning of “victim of crime”**

Insert “or in the course of conduct of a kind referred to in paragraph (b) of the definition of **modern slavery** in section 5 (1) of the *Modern Slavery Act 2018*” after “offence” in section 5 (1).

**[2] Section 17 Object of Part**

Insert “and acts of modern slavery” after “violence”.

**[2A] Section 18 Definitions**

Insert in alphabetical order—

***act of modern slavery***—see section 19A.



**[3] Section 19A**

Insert after section 19—

**19A Meaning of “act of modern slavery”**

- (1) In this Act, **act of modern slavery** means an act or series of related acts committed in New South Wales, whether committed by one or more persons—
  - (a) that has apparently occurred in the course of commission of an offence or other conduct constituting modern slavery within the meaning of the *Modern Slavery Act 2018*, and
  - (b) that has involved subjecting one or more persons to any form of slavery, servitude or forced labour of a child within the meaning of section 93AB of the *Crimes Act 1900*, and
  - (c) that has resulted in injury or death to one of those persons.
- (2) For the avoidance of doubt, the reference to an offence in subsection (1) (a) extends to conduct of a person that would constitute an offence were it not for the fact that the person cannot, or might not, be held to be criminally responsible for the conduct because of the person’s age or mental illness or impairment.
- (3) Except as provided by subsections (4) and (5), a **series of related acts** is 2 or more acts that are related because—
  - (a) they were committed against the same person, and
  - (b) in the opinion of the Tribunal or the Commissioner—
    - (i) they were committed at approximately the same time, or
    - (ii) they were committed over a period of time by the same person or group of persons, or
    - (iii) they were, for any other reason, related to each other.
- (4) An act is not related to another act if, in the opinion of the Tribunal or the Commissioner, having regard to the particular circumstances of those acts, they ought not to be treated as related acts.
- (5) An act is not related to any earlier act in respect of which support is given under this Act if it occurs after the support is given.
- (6) For the purposes of this Act, a series of related acts, whether committed by one or more persons, constitutes a single act of modern slavery.

**[4] Section 20 Meaning of “primary victim”**

Insert “or act of modern slavery” after “violence” wherever occurring.

**[5] Section 23 Eligibility for support**

Insert “or act of modern slavery” after “violence” wherever occurring in section 23 (1) and (2).

**[5A] Sections 25(1), (4), (6) and (7), 26 and 27**

Insert “or act of modern slavery” after “violence” wherever occurring.

**[6] Section 30 Financial assistance**

Insert “or act of modern slavery” after “violence” wherever occurring in section 30 (2).

**[6A] Section 30A**

Insert after section 30—

**30A Victims support where act is both act of violence and modern slavery**

To avoid doubt, if an act is both an act of violence and an act of modern slavery a victim is eligible once for support under the Scheme in relation to the act.

**[7] Section 31 Approved counselling services**

Insert “or act of modern slavery” after “violence” in section 31 (1) (b).

**[8] Section 32 Authorisation of payments for approved counselling services**

Insert “or acts of modern slavery” after “violence” in section 32 (1).

**[9] Section 32 (2)**

Insert “or act of modern slavery” after “violence”.

**[9A] Sections 34, 35, 36 and 40(5)**

Insert “or act of modern slavery” after “act of violence” wherever occurring.

**[9B] Sections 36(2) and 37(a)**

Insert “or acts of modern slavery” after “acts of violence” wherever occurring.

**[10] Section 38 Applications for victims support**

Insert “or act of modern slavery” after “violence” in section 38 (1) (a).

**[11] Section 39 Documentary evidence**

Insert “or act of modern slavery” after “violence” wherever occurring in section 39 (2).

**[12] Section 40 Time for lodging, and duration of, applications**

Insert “or act of modern slavery” after “violence” wherever occurring in section 40 (1) and (6).

**[13] Section 43 Determination of applications**

Insert “or act of modern slavery” after “violence” wherever occurring in section 43 (3) (a).

**[14] Section 44 Reasons for not approving the giving of victims support or for reducing amount of financial support or recognition payment**

Insert “or act of modern slavery” after “act of violence” wherever occurring.

**[15] Section 44 (3A)**

Insert after section 44 (3)—

(3A) In determining a matter referred to in subsection (1) or (2) in the case of an act of modern slavery, the Commissioner must have regard to the nature of the relationship between the victim and the person or persons by whom the act of modern slavery is alleged to have been committed.

**[15A] Section 46 Persons to whom financial support or recognition payment may be made**

Insert “or act of modern slavery” after “act of violence” in section 46(2).

**[16] Section 48 Victims support may be approved subject to conditions**

Insert “or act of modern slavery” after “violence” wherever occurring in section 48 (2) (d).

**[17] Section 58 Definitions**

Insert “or act of modern slavery” after “violence” in paragraph (a) of the definition of **relevant offence**.

**[18] (Repealed)**

**[19] Section 79 Application of Division**

Insert “or act of modern slavery” after “violence” wherever occurring.

**[20] Section 83 Making of restraining order**

Insert “or act of modern slavery” after “violence” wherever occurring in section 83 (1) (a).