

What is Section 54?

Section 54 of the Modern Slavery Act 2015 (MSA) came into force on 29 October 2015. It is designed to increase supply chain transparency and place greater accountability on businesses for the condition of their supply chains.

'Modern slavery' is the term used to encapsulate the two offences in the MSA: slavery, servitude and forced or compulsory labour; and human trafficking.

Does S54 apply to my organisation?

S54 applies to a commercial organisation which:

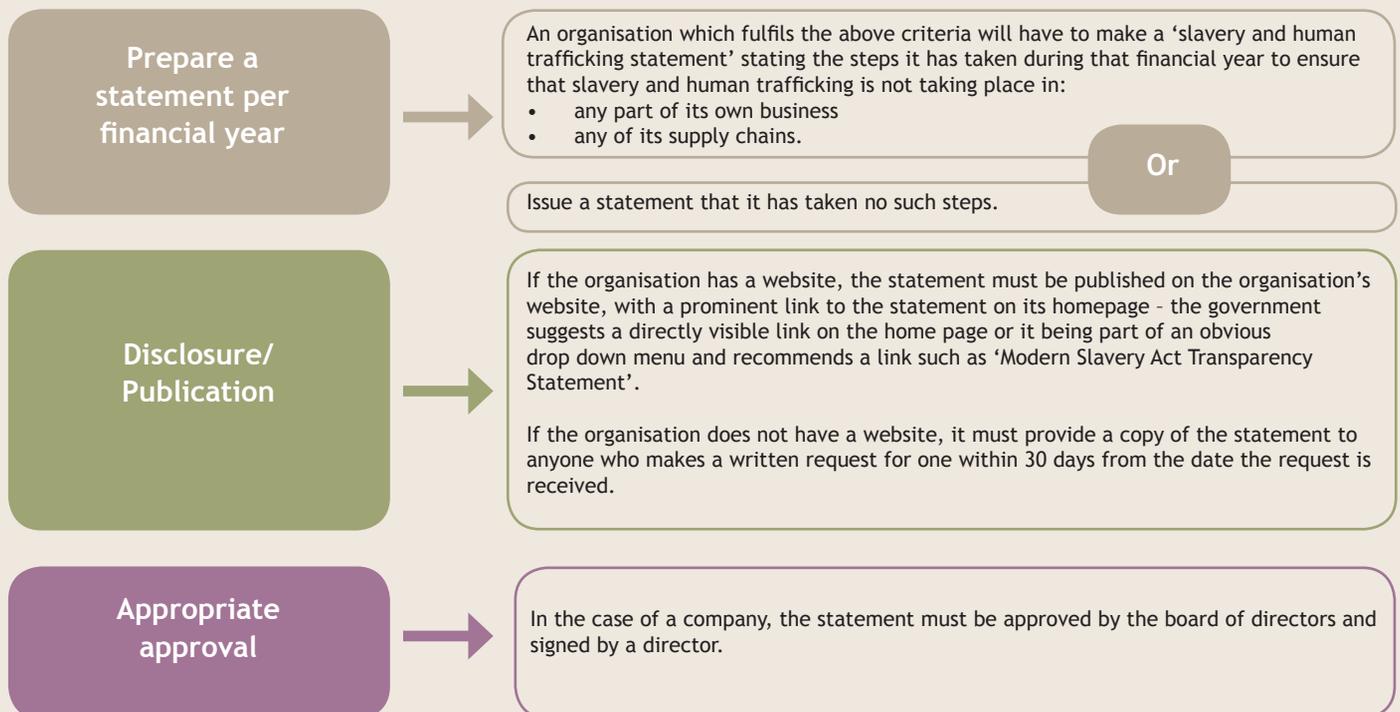
- supplies goods or services
- has a total turnover of £36m a year or more (this is global turnover and not just turnover in the UK).

Charities and universities engaging in commercial activities will not be exempt from the requirement if they fulfil the relevant criteria (regardless of their purpose and whether or not profits are made).

No, my organisation does not fall within the above threshold

Even if your organisation does not fulfil the above criteria, you should be aware of the compliance steps required as you may fall within the supply chain of your customers and suppliers and thus be required to assist with their own supply chain analysis.

Yes, my organisation does fall within the above threshold - what does S54 require a relevant organisation to do?



Commercial organisation

A body corporate or partnership, wherever incorporated or formed, which carries on a business, or part of a business, in any part of the UK. This includes franchisers, and each parent and subsidiary (whether or not based in the UK).

Turnover

Total global turnover of the commercial organisation (including all of its subsidiary undertakings) after the deduction of trade discounts, value added tax and any other taxes.

When will an organisation need to comply?

A slavery and human trafficking statement must be made in respect of each financial year.

Preparing your first statement:

- If your organisation's financial year ends on/after 31 March 2016: you will need to prepare a statement. The first statement must be made in respect of financial years ending on or after 31 March 2016.
- If your organisation's financial year ends before 31 March 2016: it does not have to make a statement regarding the current financial year (but will for next year).

How long after the financial year end should the statement be published?

In 'Transparency in Supply Chains etc. A practical Guide' recently published by the government (<https://www.gov.uk/government/publications/transparency-in-supply-chains-a-practical-guide>) it is indicated that organisations should report as soon as reasonably practicable after the end of the relevant financial year and the government would encourage organisations to report **within six months of the relevant financial year end**. To make life easier, organisations may well choose to publish the statement alongside the other annual reports they are required to produce.

What should the statement include?

There are currently no mandatory requirements as to the content or length of the statement. Based on the MSA requirements, the information relating to an organisation that may be contained in a statement includes:

- its structure, business model and supply chains
- its policies relating to slavery and human trafficking
- the parts of its business and supply chains where there is a risk of slavery and human trafficking taking place, and the steps it has taken to assess and manage that risk
- its effectiveness in ensuring that slavery and human trafficking is not taking place in its business or supply chains, measured against appropriate key performance indicators
- its due diligence processes in relation to slavery and human trafficking in its business and supply chains - this should be proportionate to the identified modern slavery risk, the severity of that risk and informed by any wider risk assessments that have been conducted
- the training about slavery and human trafficking available to its staff.

However, the recently published 'Transparency in Supply Chains etc. A practical guide' gave further pointers on what the statement should include. See our checklist below...

1. The statement should be written in simple language that is easily understood.
2. The statement should be accessible to readers - there is a balance to be struck between providing adequate details and including too much technical or legal information that could make it difficult to follow.
3. The statement should be true and reflect actual steps taken or begun - the statement should cover the full financial year in question but if an organisation has only recently undertaken activities it may choose to produce a statement that indicates certain activity undertaken covers only a particular part of that year.
4. The statement should be succinct but cover all relevant points - this can be done by linking to relevant documents or policies rather than copying large sections of them into the statement. Organisations can support narrative by providing relevant links to policies/documents that are publicly available and already published on their website. Information to disclose here could include:
 - policies that deal with business relationships
 - recruitment policy
 - procurement policy
 - employee code of conduct
 - training policies relating to increasing awareness of modern slavery.
5. The statement should be reflective of an organisation's sector, the complexity of its structure and supply chains or countries its suppliers are working in - outlining actions by specific country might help readers to understand the context of any actions or steps taken to minimise risks. Organisations should clearly state the sector(s) their business operates in and whether any of the work is seasonal.

Evolution of the statement

The government expects organisations to build on what they are doing year on year, so it will not be possible to simply 'recycle' this statement each financial year - first statements might reflect how an organisation is starting to act on the issue and outline planned future actions, whereas subsequent statements will build on this and show how compliance is evolving. Remember that this statement is not a guarantee that an organisation's entire supply chain is free from slavery - it should however capture all of the actions that have / are being taken in relation to any part of its supply chain.

Practical steps to take...

Please refer to the schedule for a checklist of practical steps that can be taken now to aid compliance with S54.

Sanctions for non-compliance

There is no initial fine. However, the Secretary of State may seek an injunction to compel the organisation to issue a statement - if this injunction is not complied with the organisation will be in contempt of a court order, which is punishable by an unlimited fine.

So, why should you take action?

The requirements of the MSA seek to create a 'race to the top' by encouraging organisations to be transparent about what they are doing and in the process drive up standards. Non-compliant organisations may expect pressure from wider society, shareholders and competitors to implement the MSA requirements - and risk negative publicity and an adverse impact on brand and share value for failing to comply, especially if they operate in a sector which is already in the spotlight for labour and supply chain issues. Your suppliers or customers may also scrutinise your actions more closely in light of their own obligations to comply.

The government has also indicated that it may name and shame organisations that do not comply in a timely manner.

For more information please contact your usual Browne Jacobson contact or email Laura - laura.mackenzie-mitchell@brownejacobson.com or call +44 (0)121 237 3959.