

Submission by the Australian Nursing and Midwifery Federation

Submission to Strengthening the Modern Slavery Act 2018

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**Australian
Nursing &
Midwifery
Federation**



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Introduction

1. The Australian Nursing and Midwifery Federation (ANMF) is Australia's largest national union and professional nursing and midwifery organisation. In collaboration with the ANMF's eight state and territory branches, we represent the professional, industrial and political interests of more than 345,000 nurses, midwives and care-workers across the country.
2. Our members work in the public and private health, aged care and disability sectors across a wide variety of urban, rural and remote locations. We work with them to improve their ability to deliver safe and best practice care in each and every one of these settings, fulfil their professional goals and achieve a healthy work/life balance.
3. Our strong and growing membership and integrated role as both a trade union and professional organisation provides us with a complete understanding of all aspects of the nursing and midwifery professions and see us uniquely placed to defend and advance our professions.
4. Through our work with members, we aim to strengthen the contribution of nursing and midwifery to improving Australia's health and aged care systems, and the health of our national and global communities.
5. The ANMF welcomes the opportunity to make its position on the proposed changes to the Modern Slavery Act 2018. The following paper will discuss those points most relevant to our members. The ANMF supports changes that are aimed at strengthening the use of the Act however we would like to state that there is risk of tokenistic reform if not supported by government motivation and corporate will to decrease the risk of human exploitation that exists within supply chains.



6. The Modern Slavery Act 2018 is a crucial document that could be effective in regulating supply chains and ensure that entities are not exploiting workers. The ANMF supports a review to update and recognise that Modern Slavery exists in Australian society and every measure is required for this heinous act to end. Throughout this paper we will answer questions relevant to our members or provide a discussion for each relevant section.
7. The ANMF has a particular interest in how this review could address concerns relating to migrant workers within the PALM scheme. Those who work in the aged care sector under the PALM scheme are particularly vulnerable and at risk of exploitation, this was identified in the UN Special Rapporteur Contemporary Forms of Slavery report (1). This report highlighted the various risks of exploitation particularly through the lack of mobility within the scheme. This lack of mobility causes a power imbalance as the worker is reliant on the employer not just for a place of work but for their ability to engage in the PALM scheme and maintain their Visa. PALM scheme workers continue to be reliant on their initial employers for the continuation of their visa status and to maintain engagement in the scheme. In these circumstances PALM scheme workers are less likely to voice if there is exploitation occurring, leaving an already vulnerable group in a dire position.
8. The ANMF submits that the current review of the Modern Slavery Act should also consider how any amendments to the Act can reduce the risk of exploitation of temporary visa holders, particularly those workers engaged in the PALM scheme.



Part A – Mandatory reporting criteria

1) Within this section the ANMF will be responding to questions 1, 4 – 10. Do you support the potential changes to the reporting criteria? Are any further changes needed to the reporting criteria?

9. Yes, the ANMF supports changes to the reporting criteria, however we would like to note that the reporting criteria is focused on large business (annual consolidated revenue above 100 million) rather than high-risk business. Not all exploitation occurs at the large business level and by ignoring this, it does not prevent potential risk to many workers within smaller businesses and industries.
10. The ANMF supports and advocates for safe working conditions and elevated working rights for their members and we request that within the review of this Act that there is consideration for the alteration of those required to report.

2) Should additional guidance be developed to assist reporting entities to comply with the proposed changes to the mandatory reporting criteria? If so, what topics should be addressed by new guidance?

11. Yes, to support intention of the Act and ensure that workers are protected by it, reporting entities should be afforded the opportunity to understand the proposed changes to the fullest. By ensuring that the reporting entities understand the changes to the mandatory reporting criteria this will enable them to understand their responsibilities.
12. The ANMF supports the changes that require entities to report on modern slavery incidents or risks identified by the entity. We also support the requirement to report on their grievance and complaint mechanisms. However, the ANMF would like to note that these mechanisms need to be protected and allow for the worker to submit their grievance in a safe environment without the fear of retaliation.



13. The existence of grievance and complaint mechanisms within an entity is essential for the ability of workers and stakeholders to report on potential failings. However, these could be considered tokenistic if these mechanisms do not have a protection mechanism built into them. A worker may fear retaliation and not be willing to report due to fear of loss of their job, visa or livelihood. These measures need to be safeguarded to allow a worker to freely report.
14. It is essential that workers have access to their Unions to be able to obtain support from a third party in a grievance. The worker also needs to be aware that these mechanisms exist and how to access these pathways, if the worker is not educated on this avenue, they will not be aware of pathways they can take if they require assistance. The ANMF would recommend that within high-risk industries, upon induction to the role, the worker is afforded the opportunity to meet with their relevant union representatives.

3) Should a new criterion be added that requires entities to report on key actions or changes since their previous statement?

15. Yes, the ANMF supports open reporting and insists that where there has been concerns regarding an entity then this organisation should remain accountable and show their key actions and changes. If this does not occur, then how can businesses be accountable for maintaining safe workplaces.

4) Should reporting entities be required to report information about grievance mechanisms? If so, what specific information about grievance mechanisms should entities be required to report on?

16. Reporting entities need to be required to report on information about grievance mechanisms, this allows for transparent workflows and gives less opportunity to bad actors to exploit the most vulnerable of workers.
17. It is the belief of the ANMF that entities should be reporting on what their process is for a worker to report a grievance, how this is followed up, what protection measures are in place to ensure repercussions of reporting do not occur as well as where a worker can go for support in that process. Open disclosure of the entity regarding their process and prevention measures is vital to the safety of those people most vulnerable within these entities.



5) Are there any sensitivities with requiring an entity to report on grievance mechanisms? Please consider any sensitivities relating to quantitative or qualitative information about grievance mechanisms that might be captured.

18. Personal information and the grievance itself need to be handled with respect and dignity to the worker. Entities should be required to report on grievance mechanisms, especially what grievance mechanisms exist and how these are accessed. However, the information itself in what is reported back should vary based on the grievance itself. Grievance mechanisms to be effective need to be culturally sensitive to be able to be effective across the workforce.

6) Should reporting on remediation be a separate mandatory reporting criterion? If so, what specific information about remediation actions and processes should entities report on? Notably, the Review explored requiring entities to report on the number of matters referred to law enforcement or other bodies, as well as to report on details of modern slavery incidents or actual risks.

19. The ANMF supports a transparent reporting process that requires entities to report on remediation. We would support the reporting of the number of matters that have been referred to law enforcement as well as reporting on modern slavery incidents and actual risks.

20. To mitigate modern slavery incidents and to effectively identify risk, it is imperative that entities are required to be transparent in all their processes. This transparency, although is not sufficient as a standalone prevention strategy, is crucial in ensuring that entities are accountable for the role in preventing modern slavery.

7) Are there any sensitivities with requiring an entity to report on remediation, noting information about remediation may include quantitative or qualitative information?

21. See response to question 5.



8) Are there any specific safeguards we should consider to protect workers in relation to reporting on grievance mechanisms and remediation?

22. The presence of grievance mechanisms and remediation processes is beneficial, however, only if the worker feels as though they can utilise these and are aware of the existence of such processes.
23. The reporting entity needs to provide information to the workers regarding their rights to access the grievance process, especially those within high-risk industries. It is crucial that workers are made aware of the relevant union for their industry. The ANMF would recommend that unions are given access to workers upon their induction to educate them on their rights and the grievance mechanisms available, this allows the workers to be aware that there is a third party available to them who can advocate on their behalf. The worker themselves may not be comfortable to report their grievances due to fear of retaliation and in this the loss of their livelihoods and potential Visa.
24. This is particularly relevant within the PALM scheme, these workers are in an extremely vulnerable position due to their mobility restrictions and are unlikely to feel able to report grievances. These workers particularly need safeguards in place to protect them; we would reiterate that union involvement with these workers is essential.

Part B – Compliance and enforcement framework

25. The ANMF's response for Part B will be a discussion on the importance of compliance and the need for penalties in non-compliant entities. We will answer the questions 12-15, 17, 18, 19, 22 and 23 which are relevant to our members.
26. Overall, the ANMF supports the proposed increase of regulatory powers and the introduction of penalties on non-compliant entities. The ANMF believes that workers should be protected within their workplaces and not be at risk of exploitation. For the Modern Slavery Act to have any effect in creating safe workplaces and ensuring that reporting entities are compliant with the Act, penalties are required.



9) To date, the regulator has not used its power to request remedial action or publish information regarding non-compliance, focusing instead on education. Would additional or enhanced guidance be sufficient to address current non-compliance?

27. Education and enhanced guidance is required in many situations, however when dealing with potential risk of modern slavery and exploiting the rights of humans, there needs to be more than education to prevent this occurring.
28. By suggesting that enhanced education will prevent those who are actively attempting to bypass the system and are either lying in their reporting or not reporting, it is necessary that there is penalties in place. Penalties are necessary to deter avoidance of reporting and providing misleading information by the reporting entities.

10) Will the use of these existing compliance powers be sufficient to address current non-compliance?

29. The current compliance powers are limited and therefore are not sufficient to address current non-compliance.

11) Should the existing compliance powers be amended? If so, how?

30. The existing compliance powers should be amended to enhance the compliance powers to penalise those that are non-compliant with Act.

12) Under Section 16A of the Modern Slavery Act, the regulator can request an entity to provide an explanation for the failure to comply with reporting requirements. Would broader information gathering powers be more effective to address non-compliance?

31. It is imperative that entities that are deemed as non-compliant with reporting requirements are thoroughly investigated. The expectation that this would be completed through an explanation from the entity itself is unlikely to be satisfactory. Broadening the information gathering powers of the regulator would be more effective to ascertain the necessary information.



13) If yes, which of the following additional regulatory tools should be introduced to respond proportionately to non-compliance?

- Infringement notices
- Enforceable undertakings
- Redacting a statement
- Other [please specify]

32. The ANMF would support an increase in regulatory tools to respond to non-compliance, currently there is minimal effective tools to manage non-compliance. The introduction of infringement notices and enforceable undertakings would be beneficial in creating accountability for those entities that are identified as non-compliant.

14) Should civil penalties be introduced into the Modern Slavery Act?

33. Yes

15) If yes, which of the following civil penalties should be introduced into the Modern Slavery Act?

- a. Failure to submit a modern slavery statement
- b. Providing false or misleading information
- c. Failure to comply with a request for remedial action

34. All three of failure to submit a modern slavery statement, providing false or misleading information and failure to comply with a require for remedial action should be used in consideration for civil penalties. The Modern Slavery Act aims to prevent exploitation of humans in a vulnerable position in the workforce, for this Act to have any impact all three of these concerns should be given the highest of consideration. By not complying with requests, failing to submit a statement or providing false information demonstrates a lack of desire to comply and prevent modern slavery. These failings show that an entity is potentially acting in bad faith.

16) If additional regulatory tools are introduced, who should carry out these new functions:

- a. The current regulator who has an existing support and advisory role
- b. An independent section or body
- c. Other [please specify]



17) For the regulator to effectively identify, investigate and litigate alleged non-compliance, the regulator will require:

- a. Access to relevant information and data to identify regulated entities
- b. Sufficient powers and access to relevant information to identify false or misleading information
- c. Sufficient funding for investigation and litigation costs
- d. Other [please specify]

For Part C, D and E we will be responding as a discussion rather than answering specific questions as these sections have minimal relevance to our members.

Part C – Joint reporting

- 35. We would suggest that businesses that have complex structures and that large, internationally based/multinational corporations must be transparent and accountable in their reporting.
- 36. The ANMF would support the lowering of the current mandatory reporting entities that are large business (annual consolidated revenue above 100 million) to include smaller and medium business.
- 37. The current ability of entities to joint report even if not related is also insufficient for accurate representation of the practices of a company and we would recommend that when reporting companies report only if part of the organisational structure. If reporting as separate entities that are unrelated this should not occur.

Part D – Voluntary reporting

- 38. The ANMF supports entities that wish to voluntarily report and supports entities providing outlines for supply chains and reporting mechanisms that provide transparent information to prevent their undertaking in modern slavery practices.
- 39. The ANMF supports a strengthening the guidance for the voluntary reporting entities, we would suggest enhanced guidance in the following areas, understanding exploitation and the various forms this can take, the risk within supply chains and prevention strategies.



Part E – Notification requirements to cease as a reporting entity

40. N/A

Conclusion

41. The ANMF welcomes the opportunity to be involved in the consultative process of strengthening the Modern Slavery Act 2018. We would like to reiterate that we support processes that prevent human exploitation and encourage processes that recognise the presence of this abhorrent practice. We believe that although this Act can have effect in the prevention of modern slavery, we also believe that there are significant reforms that need to occur.

References

- (1) Obokata, T. (2025) Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences, Tomoya Obokata, on his visit to Australia, UN Human Rights Council.
- Accessed: [UN Special Rapporteur report spotlights gaps in Australia's anti-slavery response | Australian Anti-Slavery Commissioner](#)