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International Labour Policy
Workplace Relations and Safety Policy
Ministry of Business, Innovation & Employment
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By email to: modernslavery@mbie.govt.nz

MBIE Consultation Paper – Modern Slavery and Worker Exploitation

Meridian Energy Limited (*Meridian*) welcomes the opportunity to comment on the public consultation on modern slavery and supports a legislative response to modern slavery and worker exploitation.

This submission draws on Meridian's experience as an active participant in the equivalent framework developed in Australia. Given many New Zealand businesses are already subject to obligations relating to modern slavery, Meridian stresses that any legislation implemented in New Zealand should be consistent with overseas regimes that have robust frameworks, such as that in Australia.

Meridian is committed to reducing modern slavery and worker exploitation in Aotearoa and globally through our supply chain, building on the work we have started which is outlined in our prior Modern Slavery Statements¹. We look forward to working with the Government and business community to develop and implement appropriate action to tackle modern slavery.

For any questions relating to this submission, please contact:

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Nothing in this submission is confidential.

¹ <https://www.meridianenergy.co.nz/assets/Sustainability/Modern-Slavery-Statement-2021.pdf>, and https://www.meridianenergy.co.nz/assets/Sustainability/MER0117-Modern-Slavery-Statement-8_0.pdf

SUBMISSION

1. Application of regime

Focus on “medium” and “large” entities

Meridian supports a reporting threshold based on revenue or turnover and also supports government entities being included as reporting entities in any proposed legislation. However, Meridian queries whether the proposed definitions of “small”, “medium” and “large” will capture too many entities too soon, particularly with the inclusion of all forms of organisations (e.g. companies, partnerships, charities and trusts).

We consider that the proposals should focus on “medium” and “large” entities in the first instance. Consideration can be given to expanding the regime to “small” entities once competence with and understanding of the reporting requirements develop. This would also ensure that any monitoring and enforcement body can engage with a manageable number of first entrants. Alternatively, a risk-based approach could be adopted for application beyond medium and large entities such as considering entity types which are more likely to have exposure to high-risk geographies, goods/services etc.

Voluntary compliance

Meridian also supports a capacity for non-reporting entities to opt-in or to be able to voluntarily issue modern slavery statements. Voluntary modern slavery due diligence in supply chains statements should be treated in the same way as those made by entities subject to legislation given:

- some organisations may wish to be seen to be reporting, and to be able to publicly champion their efforts to ensure modern slavery does not contribute to their business;
- some major reporting entities may encourage their major suppliers to voluntarily report, even where not obliged to; and
- some growing entities may wish to start reporting prior to reaching the statutory revenue threshold.

Other comments

If a reporting threshold is based on revenue or turnover, proposed legislation should include appropriate provisions which address fluctuating annual revenue.

2. Reporting obligations

Definitions of “operations” and “supply chains”

Meridian considers it important that any reporting requirement cover both the entity’s own operations and its supply chains, to ensure that the impact of the requirement addresses the risk in its fuller extent, and in particular at the lower levels of lengthy supply chains where the risk of exploitation is often greatest.

If there is to be a requirement to issue a modern slavery statement addressing matters in relation to “operations” and “supply chains”, then the legislation should clearly identify what activities fall within scope and capture the circumstances of different industries. Meridian recommends that detailed guidance on any statutory definitions should also be available.

Proposed responsibilities and obligations

Meridian is not opposed to an obligation to remedy identified modern slavery risks in supply chains. However, the proposed obligation to take “reasonable and proportionate action” goes a step further than equivalent frameworks developed in Australia and the UK which would require some New Zealand entities which also operate in the UK or Australia to implement and manage different compliance programmes and obligations across different jurisdictions. Meridian strongly recommends any proposals are aligned with overseas regimes as much as possible, and/or be clear on the effectiveness of NZ-specific higher requirements relative to the risk and requirements internationally.

If there is a mandatory obligation to take steps to remedy identified modern slavery, thought will need to be given to ensure any such obligation is fit for purpose. Sufficient detail and guidance should be provided.

Reporting timeframe

Meridian supports the proposition that entities report according to their own financial year, as this would make for smoother reporting processes internally.

Approval of modern slavery statements

Meridian also recommends that the proposed legislation include the requirement that all modern slavery statements be approved by the Board and signed by a director (or equivalent body and position-holder in a non-corporate entity). The requirement that the statement be approved by the Board is key to ensuring that the issue of modern slavery is escalated within the entity and given due attention from a governance perspective. The requirement for approval and signature also engages the duties of Directors to ensure the accuracy of the report and helps in ensuring that the report is treated with the seriousness it requires.

3. Oversight and enforcement

Meridian supports the introduction of a central repository that clearly lists those entities that are subject to legislation and obliged to provide a modern slavery statement. A list of entities that have failed to report by the required deadline will also be important to ensure the integrity of the legislation and the accountability of entities that fail to meet their obligations. We do query whether developing a central repository is the best use of resources initially and it may be worth considering phasing this in at a later date.

Meridian strongly submits that penalties for non-compliance are required to ensure the integrity and effectiveness of the legislation. Without a system for monitoring compliance, and a penalty for non-compliance significant numbers of entities may flout their legal obligations and simply not report.

Penalties for non-compliance should include a financial penalty, and the listing of the entity on a public list of entities that have failed to report, produced on an annual basis.