

Fighting Against Forced Labour and Child Labour in Supply Chains

October 30, 2023

The Fighting Against Forced Labour and Child Labour in Supply Chains Act will take effect on January 1, 2024, requiring certain organizations in Canada that are involved in the production or distribution of goods to submit a report outlining their commitment against forced labour or child labour.

If your organization produces, purchases, distributes, grows, or manufactures goods in Canada or elsewhere, or imports any goods from inside or outside of Canada, you may be required to report. More generally, if you or your organization has a shipping or receiving department, you may be required to report. Reporting requirements may be imposed on entities within, but not exclusively within, the following industries:

- Accommodation
- Agriculture, forestry, fishing, hunting
- Business support services
- Construction
- Educational services
- Food service
- Health care and social assistance
- Manufacturing
- Mining, quarrying, and oil extracting
- Professional, scientific, or technical services
- Retail trade
- Transportation and warehousing
- Waste management
- Wholesale trade

Purpose of the Act

The purpose of the act is to implement Canada's international commitment to fight against the use of child and forced labour.

The act imposes reporting obligations on (a) government institutions that produce, purchase, or distribute goods in Canada or elsewhere, as well as (b) entities that produce, manufacture, grow or process goods in Canada or elsewhere or which import goods produced, grown, extracted, or processed outside of Canada.

Entities that are required to act as reporting parties include government institutions, and entities such as corporations, trusts and partnerships that are listed on a stock exchange in Canada, have a place of business in Canada, do business in Canada or have assets in Canada and (based on consolidated financial statements) meet at least two of the following conditions for at least one of its two most recent financial years: (i) have at least \$20 million in assets; (ii) have generated

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at least \$40 million in revenue; or (iii) employ an average of at least 250 employees.

Reporting Obligations

Reporting parties must submit a report each year to the Minister of Public Safety and Emergency Preparedness (the “Minister”). The report must generally outline the steps that the reporting party has taken during its previous financial year to prevent and reduce the risk that forced labour or child labour is used at any step of goods being produced, purchased or distributed.

The report must include details relating to such things as:

1. Structure, activities, and supply chains
2. Policies and due diligence processes in relation to forced and child labour
3. Activities/business and supply chains that carry a risk of forced labour or child labour being used and steps taken to assess and manage risk
4. Any measures taken to remediate any forced labour or child labour
5. Details of training provided to employees regarding forced and child labour.

Reporting parties must make their reports available to the public, including by publishing them in a prominent place on their websites.

Further, entities that are incorporated pursuant to the *Canada Business Corporations Act* must also provide the report and any revisions thereto to each shareholder.

Designated Persons

The act grants authority to the Minister to designate either a person (or class of persons) to administer and enforce the Act. This means that if a company qualifies as a reporting party, the Minister can instruct a designated person to enter to premises of that reporting party at any time to examine and access computer systems and communication portals, seize documents, use copy equipment, take photographs or recordings, insert or remove equipment, prohibit or limit access, or remove anything for the purpose of examination.

Orders, Offences and Fines

If a reporting party does not comply with the reporting obligations set out in the act, the Minister may make orders to take measures necessary to ensure compliance. Any failure to comply with annual reporting obligations, or falsely reporting or providing misleading statements to the Minister or a designated person, or other contraventions to the act, may result in the conviction of an offence and a fine of up to \$250,000.

Further, liability may extend to any director, officer, or agent of the reporting party who directed, authorized, assented to, acquiesced in or participated in the commission of the offence.

Summary and Final Remarks

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If you or your organization qualifies as a reporting party, you are required to submit a yearly report starting January 1, 2024. It may be pertinent for you to establish policies, due diligence processes, and employee training modules regarding forced labour and child labour in advance of the report. You will likely need to analyze your supply chain and gather information. You will also need to fulfill the publishing and distribution requirements as set out in the act.

The first report is due not later than May 31, 2024. It is imperative that reporting parties turn their minds to compliance.

If you have any questions about your reporting obligations, your associates at Miller Canfield LLP will be able to provide you with assistance.

Disclaimer: This article should not be construed as legal advice, but rather as an educational tool.