

# The Deadline to Report Under Canada's New Anti-Forced Labour Supply Chain Law is Fast Approaching: What You Need to Know

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[\*Fighting Against Forced Labour and Child Labour in Supply Chains Act\*](#) (the "Act")<sup>[1]</sup> came into effect on January 1, 2024.

The purpose of the Act is to support Canada's international commitment to contribute to the fight against forced labour and child labour through the imposition of reporting obligations on entities that produce, sell or distribute goods in Canada or elsewhere or that import goods produced outside Canada<sup>[2]</sup> and on government institutions producing, purchasing or distributing goods in Canada or elsewhere.

It requires entities<sup>[3]</sup> (a new definition) that meet certain thresholds to submit a report to the Minister of Public Safety and Emergency Preparedness and respond to an online questionnaire with respect to steps the entity 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 the production of goods in Canada or elsewhere by the entity, or of goods imported into Canada by the entity, and includes their policies around forced labour and child labour, among other information. The report must be approved by the entities' governing body, and it must be submitted with evidence of such approval. Reports need to be submitted annually by **May 31<sup>st</sup>**.

Failure to comply with the Act is a punishable offence, and directors, officers, agents, or any other mandatary of the entity may be personally liable. The Act also provides broad powers to designated persons for the purposes of verifying compliance to enter any place where they believe there are documents or other information, examine any documents or computer systems, take photos, make copies and remove anything for the purpose of further examination. There is a positive duty to cooperate in such inspections and it is an offence to obstruct such activities. Liability under the Act for failure to comply and liability for knowingly making false or misleading statements (or information) can each be up to \$250,000.

All businesses should consider whether they meet the test of an "entity" under the Act and whether they are required to report as such an entity.

## What is an "entity"?

"Entity" is a new definition under the Act and includes any corporation, trust, partnership and unincorporated organization that: (a) is listed on a stock exchange in Canada; (b) prescribed by regulations<sup>[4]</sup>; or (c) has a place of business in Canada, does business in Canada or has assets in Canada, and that meets at least two of the following for at least one of its two most recent financial years<sup>[5]</sup>:

(1) \$20 million or more in assets,

(2) \$40 million or more in revenue, and

(3) An average of 250 or more employees.[\[6\]](#)

#### When is an entity required to report?

An entity is required to submit a report if it produces, sells or distributes goods in Canada or elsewhere; imports goods into Canada produced outside Canada; or controls an entity engaged in any of the foregoing activities. Businesses should be aware that it is almost certain the terms “producing”, “selling”, “distributing” and “importing” will be interpreted to have different meanings and a business may be subject to reporting obligations if its activities are captured by any of these four terms.

Further, the Act is not limited to any particular industry. Businesses will be subject to reporting obligations if they meet the test of an “entity” under the Act and are engaged in the enumerated activities. This means reporting obligations may arise across a variety of industries, including agriculture, forestry, mining, construction, wholesale and retail trade, transportation, professional, scientific and technical services, management companies, real estate, insurance and manufacturing.[\[7\]](#)

#### Contents of a Report

The report must set out the steps the entity 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 the production of goods in Canada or elsewhere by the entity or of goods imported into Canada by the entity.

In addition, the report must include information on the entity’s structure, activities and supply chains; its policies and its due diligence processes in relation to forced labour and child labour; the parts of its business and supply chains that carry a risk of forced labour or child labour being used and the steps it has taken to assess and manage that risk; any measures taken to remediate any forced labour or child labour; any measures taken to remediate the loss of income to the most vulnerable families that results from any measure taken to eliminate the use of forced labour or child labour in its activities and supply chains; the training provided to employees on forced labour and child labour; and how the entity assesses its effectiveness in ensuring that forced labour and child labour are not being used in its business and supply chains.

It is important to note that in addition to filing of the report (which is to be no more than 10 pages), entities are also required to have the report approved by their governing body (for example, as evidenced by a resolution of a corporate entity’s board of directors), make the report public[\[8\]](#), and submit responses to an online questionnaire.

An entity may file a joint report with any entities that it controls, or with multiple entities belonging to the same corporate group, so long the information within the report generally applies to all entities covered by the report.

In light of the broad administrative and enforcement powers of designated persons, including the power to inspect documents, businesses should take special care of solicitor-client privileged communications in the course of preparing their reports.

#### What’s next?

The Act is one step towards compliance with Canada’s obligations under Chapter 23 of the Canada-United States-Mexico Agreement (CUSMA) to adopt and maintain statutes, regulations, and practices to *eliminate* all forms of forced or compulsory labour and effective abolition of child labour.

Businesses should remain vigilant of changes to this legal landscape. The Minister of Public Safety and Emergency Preparedness and

the Minister of International Trade, Export Promotion, Small Business and Economic Development have mandates to support the Minister of Labour in introducing legislation to eradicate forced labour from Canadian supply chains. At this time, there have been no further announcements with regard to new legislation.

#### Contact Us

Our lawyers are available to assist you in determining whether your business should file a report this year and for assistance with preparing reports and attestations, reviewing reports, conducting supply chain audits, and developing policies relating to supplier codes of conduct, forced and child labour and procurement policies.

***The information and comments herein are for the general information of the reader and are not intended as advice or opinion to be relied upon in relation to any particular circumstances. For particular application of the law to specific situations, the reader should seek professional advice.***

[1] *Fighting Against Forced Labour and Child Labour in Supply Chains Act*, S.C. 2023, c. 9.

[2] Reporting obligations are also imposed on entities that control those engaged in such activities.

[3] Government institutions are also covered entities under the Act as defined under section 3 of the *Access to Information Act*.

[4] No regulations have been made as of the date of this article.

[5] Based on its consolidated financial statements.

[6] *Fighting Against Forced Labour and Child Labour in Supply Chains Act*, S.C. 2023, c. 9. Section 2.

[8] Entities that are incorporated under the *Canada Business Corporates Act* or any other Act of Parliament must also provide a copy of the report to each of their shareholders, with their annual financial statements.

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