

Modern Slavery: What the Food and Drink sector need to know

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Today's agenda

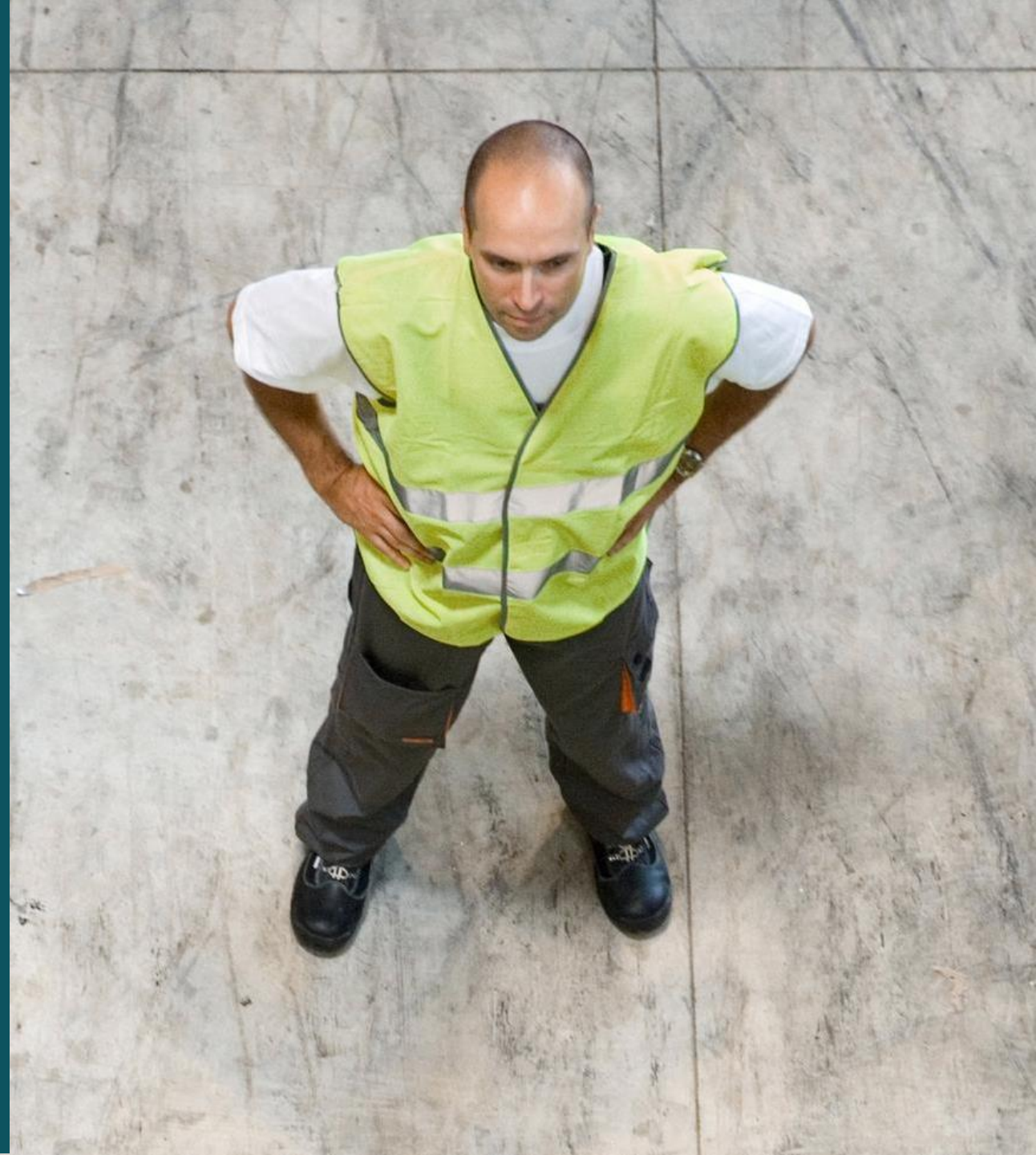
What is modern slavery?

Current legal landscape

Stakeholder and peer group action

Future developments

European position

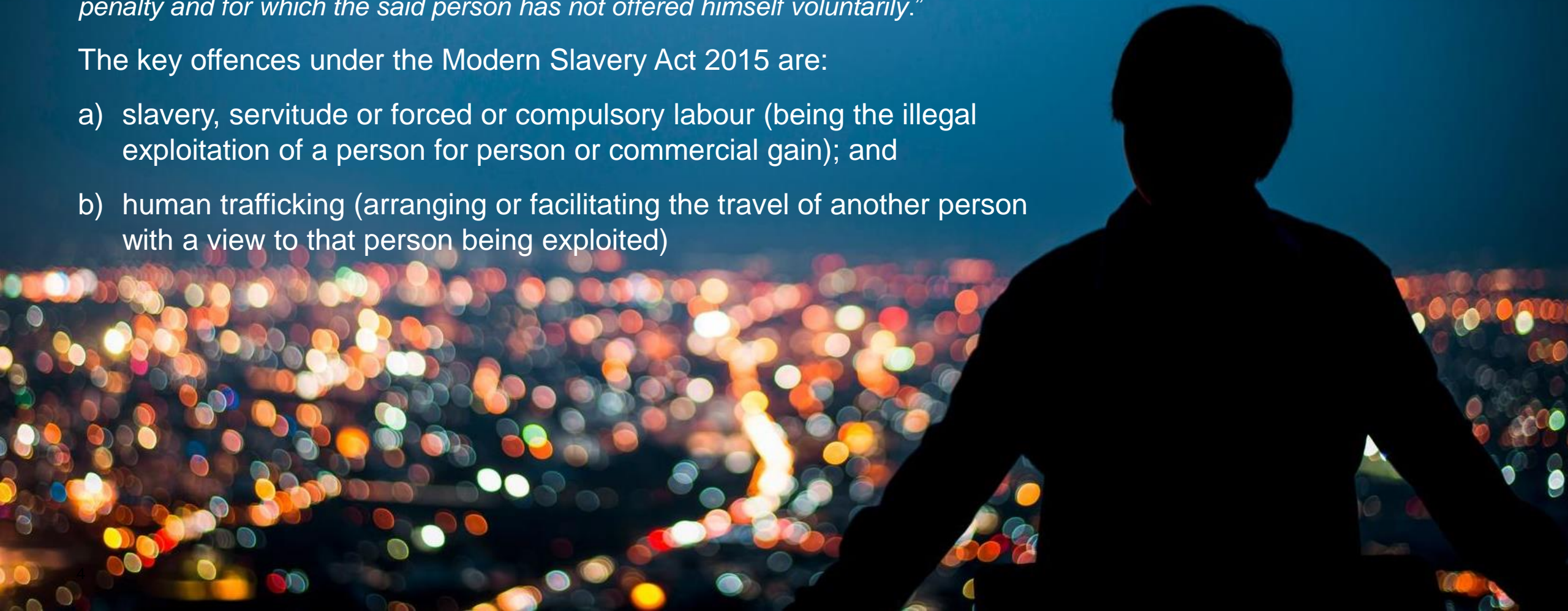


What is modern slavery?

ILO's Forced Labour Convention, 1930 (No. 29) defines modern slavery as
“all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.”

The key offences under the Modern Slavery Act 2015 are:

- a) slavery, servitude or forced or compulsory labour (being the illegal exploitation of a person for person or commercial gain); and
- b) human trafficking (arranging or facilitating the travel of another person with a view to that person being exploited)



Modern Slavery in the food and drink sector

Food and drink sector considered at high risk of modern slavery

Approximately 13% of all forced labour is from the food sector:

- food processing
- agriculture
- non-residential catering

Modern slavery in 'normal' workplaces

Do you *really* know your supply chains?



The background features a series of flowing, wavy lines in various shades of green and teal, creating a sense of movement and depth. The lines are more densely packed on the right side and spread out towards the left.

Current legal landscape in the UK

s.54 Modern Slavery Act

Large organisations meeting s.54 criteria required to produce modern slavery statement on annual basis.

Section 54 criteria:



commercial organisations
(bodies corporate or
partnerships)



carrying on business or
part of business in UK



supplying goods
or services



with annual global turnover
of £36 million or above
(including aggregate
turnover of all subsidiaries)

Don't need to have any form of footprint in the UK

s.54 Modern Slavery Act



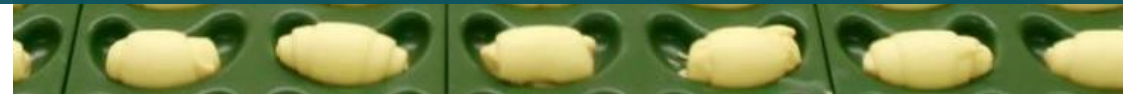
Two options for MSA statement:

- Option **A**: statement outlining steps taken during financial year to ensure slavery and human trafficking not taking place in own business and supply chains; or
- Option **B**: statement that no such steps have been taken

Organisations encouraged to report within 6 months of relevant financial year end

If a group of companies chooses to publish one statement, it:

- must cover the steps taken to prevent modern slavery in all the organisations within that group that meet the criteria, and their supply chains
- should clearly name the parent and subsidiary organisations it is covering
- should be published on the UK websites of all the organisations covered by the statement



s.54 Modern Slavery Act

Not prescriptive - expect statements to vary from business to business.

Statement should aim to include details of:

- Organisation's structure, business model and supply chains
- Anti-slavery and human trafficking policies and training
- Slavery and human trafficking due diligence undertaken for business and supply chains
- Identifying risk areas in supply chain and steps taken to manage risk
- Performance indicators to demonstrate organisation's effectiveness at tackling slavery and human trafficking in business and supply chain

s.54 Modern Slavery Act

Once statement is finalised:

- ✓ Ensure board level approval of the statement and ensure that this is recorded in the minutes
- ✓ One director must sign the statement
- ✓ Publish on website with prominent link from homepage
- ✓ In English plus additional languages relevant to business and supply chain
- Enforcement through High Court injunction
- Significant reputational damage
- Currently no financial penalties/sanctions



s.54 Modern Slavery Act

Key areas for organisations in the food & drink sector:



Audit / transparency

- audit your supply chain
- identify where labour and materials are being sourced
- engage with suppliers proactively
- map hotspots



Policies / practices -

- recruitment
- procurement/sourcing
- operations
- contractual obligations
- risk management
- Compliance
- whistleblowing



Remedial Plan

what is the plan for addressing issues identified
remedial measures are in place?



Training

- staff training
- communication on progress
- culture



**Stakeholder and
peer group action**

Stakeholder and peer group action

Increasing potential for litigation:

- Anti Trafficking and Labour Exploitation Unit v Home Office
- Dhan Kumar Limbu & Ors v Dyson Technology Limited & Ors
- Municipio de Mariana v BHP Group (UK) Ltd

Directors' duties

- Where supply chain risks arise from action or inaction by directors, shareholders could bring claims for breach of duty
- Risk of directors' disqualification due to failure to comply with reporting obligations



Stakeholder and peer group action

Sector activists, such as:

- Tribe Freedom Foundation: 'Foodies Fighting Slavery'
- Food Industry Intelligence Network
- Tony's Choclonely

Membership of sector groups such as:

- Food Network for Ethical Trade
- Suppliers Ethical Data Exchange
- Stronger Together UK Seasonal Worker Scheme Taskforce



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Future developments

Future developments

Queen's Speech: Modern Slavery Bill

- Extending the reporting requirement to public bodies
- Mandate the specific topics statements must cover (with some flexibility for 'comply or explain')
- Set a single deadline for reporting
- Require organisations to publish directly to new government reporting service. Government registry went live in March 2021 but currently only voluntary
- Require statements to state the date of Board approval and director sign off
- Government is considering enforcement options

House of Lords Modern Slavery Act 2015 Committee

Future developments

EU Forced Labour Regulation

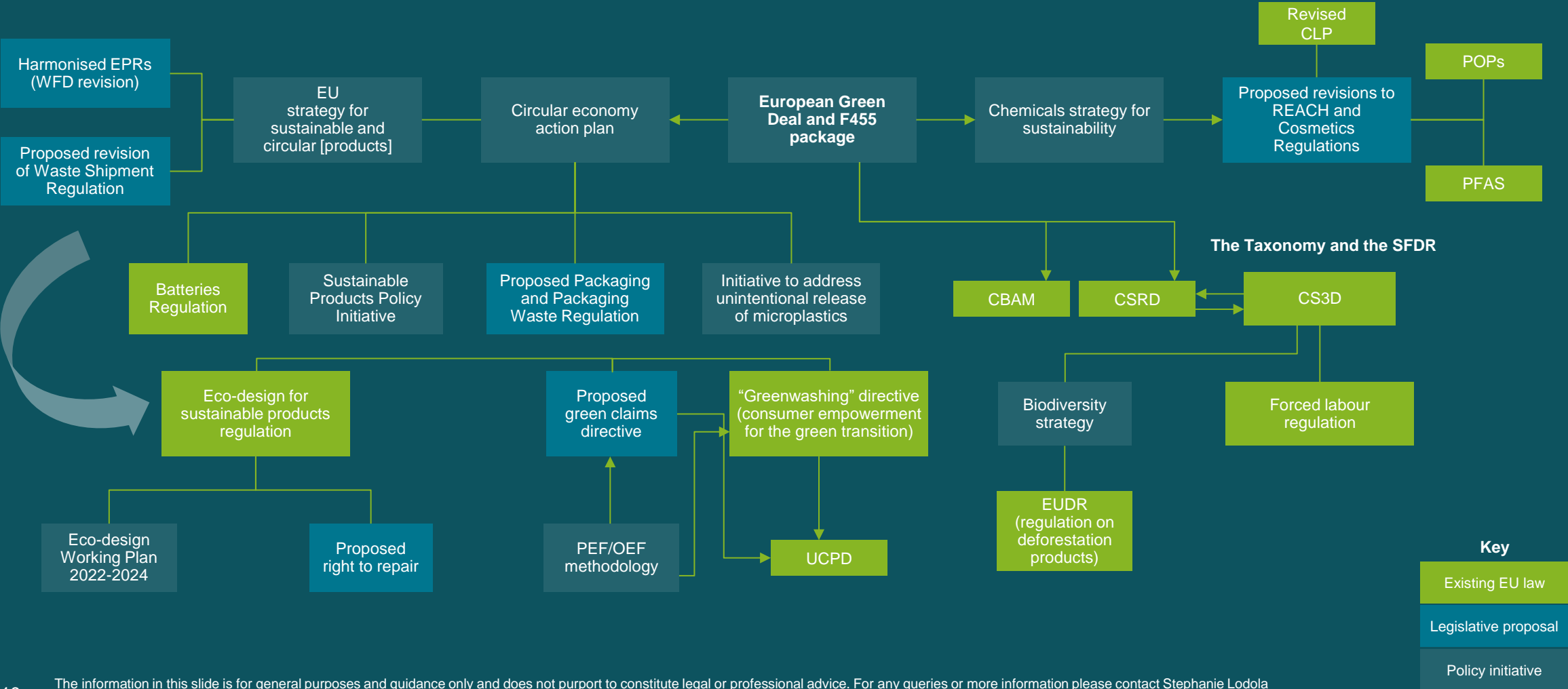
- Application from December 2027
- Prohibiting products produced using forced labour from being placed on or exported from the EU market
- Joint Committee on Human Rights announced an inquiry into forced labour in UK supply chains, including the effectiveness of the MSA





Further EU developments

Snapshot of EU measures: European climate law



Corporate Sustainability Reporting Directive (CSRD)



Expanded Scope

- CSRD covers large or listed companies (two out of the three following thresholds: €50 million net turnover, €25 million balance sheet total, 250 employees).
- Much wider applicability than previous Non-Financial Reporting Directive (“NFRD”). Coverage increased from ≈ 11,000 companies to ≈ 50,000 companies

Substantive Highlights

- Reporting: Retains “double materiality”: effect of sustainability (or lack thereof) on a company and company impact on overall sustainability (inside/outside; forwards/backwards).
- Mandatory sustainability standards for first time.
- Audit: Requires third-party auditing and assurances
- Digitisation: Information will have to be tagged for European Single Access Point
- Allows for equivalence with third-country regimes, but requires recognition from the European Commission

Timeline

- Phased application: NFRD in-scope FY 2024 (reporting 2025); large companies and groups (2025 for 2026), to listed SMEs (2026 for 2027, but option to delay until 2029), and non-EU with significant presence (2028 for 2029)
- To be fully in force, transposition by Member States into national law **by 6 July 2024** (fewer than 10 currently not fully transposed)
- Delegated Regulation with ‘sector agnostic’ sustainability reporting standards **July 2023**, sector specific delay until **2026**



Omnibus Package – CSRD



New Scope

- Larger EU companies (>than 1,000 employees and either a turnover above EUR 50 million or a balance sheet above EUR 25 million)
- This reduces the scope by about 80% removing some of the undertakings from the second wave and some of the undertakings from the first wave and listed SMEs (i.e. all undertakings in the third wave)



Substantive Highlights

- **Postponement:** Postponement by two years of reporting requirements for companies in the current scope of CSRD required to report in 2026 or 2027
- **‘Value chain cap’:** The value-chain cap would be expanded and strengthened, applying directly to the reporting company rather than just limiting ESRS requirements. It would also protect all undertakings with up to 1,000 employees
- **Voluntary reporting:** For companies which will not be in the scope of the CSRD anymore (up to 1,000 employees), the Commission will adopt by delegated act a voluntary reporting standard, based on the standard for SMEs (VSME) developed by EFRAG
- **Deletion of sector-specific standards requirement:** The proposal will delete the empowerment for the Commission to adopt sector-specific standards



Supply Chain: Corporate Sustainability Due Diligence Directive (CSDDD)



Expanded Scope

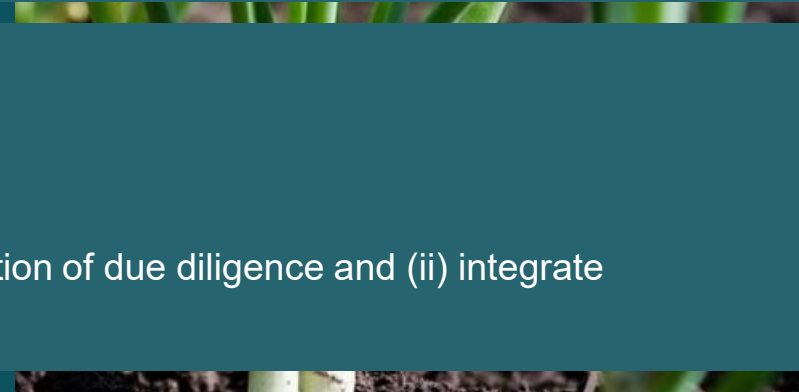
- Large EU companies (>than 1000 employees and a net worldwide turnover of over EUR 450 million)
- Non-EU companies with a EUR 450 million net turnover generated in the EU (five years from the entry into force of the CSDDD). UK companies could be affected directly or indirectly
- Estimated to apply to approximately 6000 large EU companies, and some 900 non-EU companies

Substantive Highlights

- Corporate and due diligence policies
- Constant monitoring of own procedures and policies
- Potential impact on certain UK Companies
- Directors' due diligence and duty of care: (i) set up & oversee the implementation of due diligence and (ii) integrate due diligence into corporate strategy

Timeline

- This came into force on 25 July 2024. Member states have until 26 July 2026 to transpose the CSDDD into national law. Application will then be on a staggered basis, starting from 26 July 2027 for the largest companies.

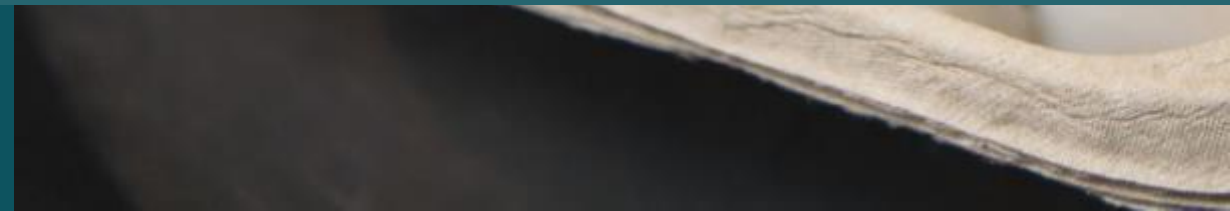


Omnibus Package – CSDDD



Substantive Highlights

- **Postponement:** Postpone due diligence requirements for large companies by one year (to 26 July 2028) and bring forward the adoption of guidelines by one year (to July 2026)
- **Value chain reviews:** Limit the information requested for value chain mapping by large companies (reduce burden on SMEs and small mid-caps)
- **Remove Annual DD:** Simplify due diligence by focusing on direct business partners and reducing assessments from annual to every 5 years.
- **Limit scope:** Limit the information requested from SME and small mid-cap business partners (≤500 employees) to what is specified in the CSRD VSME to reduce the trickle-down effect
- **Defer to national civil liability regimes:** Remove harmonised EU conditions for civil liability and revoke the obligation for Member States to allow representative actions by trade unions or NGOs
- **Delete the review clause:** Remove the review clause on the inclusion of financial services in the scope of the due diligence directive.
- **Increase harmonisation:** Increase harmonisation of due diligence requirements
- **Double materiality:** No change to the 'double materiality perspective'



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