

Draft modern slavery clause options for Commonwealth entities

The table below sets out the short, standard and long form versions of the draft modern slavery clause. The clauses support the Commonwealth’s compliance with its obligations under the *Modern Slavery Act 2018* (Cth) (the Act).

- The short form clause is appropriate for contracts where the risks of modern slavery existing in the relevant supply chain have been assessed as low. It imposes more basic or general obligations on the supplier. (Black text)
- The standard clause builds on the basic obligations from the short form clause and includes obligations about particular Modern Slavery risks, the provision of training and the preparation of a risk management plan. (Additional obligations in orange text)
- The long form clause is more detailed again. It would be appropriate for contracts where the Commonwealth customer considers there is a higher risk of modern slavery and therefore it is appropriate to take additional steps to ensure these risks are being identified and mitigated. The clause builds on the obligations in the standard clause, but provides the Customer with a right to review and suggest amendments to the risk management plan. (Additional obligations in green text)

The clause is drafted for use with the Commonwealth Contracting Suite (CCS) templates and is intended for inclusion in Finance’s Commonwealth ClauseBank – accessible here: <https://www.finance.gov.au/government/procurement/clubank>. The clause uses terminology consistent with the Commonwealth Contracting Suite (CCS) templates. For example: ‘Supplier’; ‘Customer’; ‘Contract’ and ‘Goods and/or Services’. This is the same approach taken in other ClauseBank clauses.

The terminology is also consistent with definitions and concepts in the Act or relevant international policy materials. For example: ‘Modern Slavery’ has the same meaning as set out in the Act; ‘Recruitment Fees’ is from the International Labour Organization’s *General Principles and operational guidelines for fair recruitment and definition of recruitment fees and related costs*; and ‘Grievance Mechanism’ is from the United Nations’ *Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework*.

Each clause also includes brief drafting notes. These drafting notes remind Users that terminology may need to be changed to align with their contract and lists other issues which they should take into account when including the clause in a contract.

Table 1: Modern slavery clause options

Option 1 – Short form	Option 2 - Standard	Option 3 – Long form
<p>X.1 In this clause X:</p> <p>Guiding Principles on Business and Human Rights means the United Nations’ <i>Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework</i> available at https://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr_en.pdf.</p> <p>Modern Slavery has the same meaning as it has in the <i>Modern Slavery Act 2018</i> (Cth).</p>	<p>X.1 In this clause X:</p> <p>Grievance Mechanism means a process for handling a complaint or grievance about Modern Slavery practices that is consistent with the criteria set out in the <i>Guiding Principles on Business and Human Rights</i>.</p> <p>Guiding Principles on Business and Human Rights means the United Nations’ <i>Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework</i> available at https://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr_en.pdf.</p> <p>Modern Slavery has the same meaning as it has in the <i>Modern Slavery Act 2018</i> (Cth).</p> <p>Personnel means any person who is an officer, employee, contractor (including subcontractor) or agent of the Supplier involved in providing the Goods and/or Services.</p>	<p>X.1 In this clause X:</p> <p>Grievance Mechanism means a process for handling a complaint or grievance about Modern Slavery practices that is consistent with the criteria set out in the <i>Guiding Principles on Business and Human Rights</i>.</p> <p>Guiding Principles on Business and Human Rights means the United Nations’ <i>Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework</i> available at https://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr_en.pdf.</p> <p>Modern Slavery has the same meaning as it has in the <i>Modern Slavery Act 2018</i> (Cth).</p> <p>Personnel means any person who is an officer, employee, contractor (including subcontractor) or agent of the Supplier involved in providing the Goods and/or Services.</p>

Option 1 – Short form	Option 2 - Standard	Option 3 – Long form
X.2 The Supplier must take reasonable steps to identify, assess and address risks of Modern Slavery practices in the operations and supply chains used in the provision of the Goods and/or Services.	X.2 The Supplier must take reasonable steps to identify, assess and address risks of Modern Slavery practices in the operations and supply chains used in the provision of the Goods and/or Services.	X.2 The Supplier must take reasonable steps to identify, assess and address risks of Modern Slavery practices in the operations and supply chains used in the provision of the Goods and/or Services.
<i>Not Used</i>	X.3 The Supplier will ensure Personnel responsible for managing the operations and supply chains used in the performance of the Contract have undertaken suitable training to be able to identify and report Modern Slavery.	X.3 The Supplier will: (a) ensure Personnel responsible for managing the operations and supply chains used in the performance of the Contract have undertaken suitable training to be able to identify and report Modern Slavery; and (b) promptly notify the Customer after all relevant Personnel complete this training.
<i>Not Used</i>	X.4 Within one month of the Contract Start Date, the Supplier will prepare and implement a Modern Slavery Risk Management Plan in relation to its performance of this Contract and, if requested by the Customer, provide a copy of this plan to the Customer. The Modern Slavery Risk Management Plan should at a minimum detail: (a) the Supplier's steps to identify and assess risks of Modern Slavery practices in the operations and supply chains used in the performance of the Contract; (b) the Supplier's processes for addressing any Modern Slavery practices of which it becomes aware in the operations and supply chains used in the performance of the Contract; (c) the content and timing of training for Personnel about Modern Slavery; and (d) the Grievance Mechanism/s available to Personnel. X.5 The Supplier must comply with the Modern Slavery Risk Management Plan in its performance of this Contract. For the avoidance of doubt, nothing in this clause derogates from the Supplier's other obligations arising under this Contract or otherwise in relation to the provision of the Goods and/or Services.	X.4 The Supplier will prepare and implement a Modern Slavery Risk Management Plan in relation to its performance of this Contract. The Supplier will submit the Modern Slavery Risk Management Plan to the Customer within one month of the Contract Start Date for review. X.5 The Modern Slavery Risk Management Plan should at a minimum detail: (a) the Supplier's steps to identify and assess risks of Modern Slavery practices in the operations and supply chains used in the performance of the Contract; (b) the Supplier's processes for addressing any Modern Slavery practices of which it becomes aware in the operations and supply chains used in the performance of the Contract; (c) the content and timing of training for Personnel about Modern Slavery; and (d) the Grievance Mechanism/s available to Personnel. X.6 The Customer may provide comments to the Supplier in relation to the Modern Slavery Risk Management Plan, and the Supplier will promptly make any amendments required by the Customer and promptly resubmit the revised Modern Slavery Risk Management Plan to the Customer for its further review. X.7 The Supplier must comply with the Modern Slavery Risk Management Plan in its performance of this Contract. For the avoidance of doubt, nothing in this clause derogates from the Supplier's other obligations arising under this Contract or otherwise in relation to the provision of the Goods and/or Services.
X.3 If at any time the Supplier becomes aware of Modern Slavery practices in the operations and supply chains used in the performance of the Contract, the Supplier must as soon as reasonably practicable take all reasonable action to address or remove these practices, including where relevant by addressing any practices of other entities in its supply chains.	X.6 If at any time the Supplier becomes aware of Modern Slavery practices in the operations and supply chains used in the performance of the Contract, the Supplier must as soon as reasonably practicable:	X.8 If at any time the Supplier becomes aware of Modern Slavery practices in the operations and supply chains used in its performance of the Contract, the Supplier must as soon as reasonably practicable:

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	<ul style="list-style-type: none"> (a) take all reasonable action to address or remove these practices, including where relevant by addressing any practices of other entities in its supply chains; and (b) take all reasonable steps to remediate any adverse impacts caused or contributed to by the Supplier from these practices in accordance with the Guiding Principles on Business and Human Rights. 	<ul style="list-style-type: none"> (a) promptly notify the Customer of the Modern Slavery practices and provide any relevant information requested by the Customer; (b) take all reasonable action to address or remove these practices, including where relevant by addressing any practices of other entities in its supply chains; and (c) take all reasonable steps to remediate any adverse impacts caused or contributed to by the Supplier from these practices in accordance with the Guiding Principles on Business and Human Rights; (d) consult with the Customer about its actions and steps under clauses X.8(b) and X.8(c); and (e) provide updates to the Customer of its progress to address or remove these practices and remediate the adverse impacts on a regular basis and as otherwise requested by the Customer.
<i>Not used</i>	<p>X.7 Without limiting clause X.6, in performing the Contract, the Supplier must:</p> <ul style="list-style-type: none"> (a) not require Personnel to pay fees, charges, expenses or financial obligations incurred in order for the Personnel to secure their employment or placement (Recruitment Fees), regardless of the manner, timing or location of the imposition or collection of these Recruitment Fees; (b) not destroy or exclusively possess, whether permanently or otherwise, the travel or identity documents of Personnel; and (c) ensure Personnel can access a Grievance Mechanism to safely report any instances of Modern Slavery in the operations and supply chains used by the Supplier in its performance of this Contract. 	<p>X.10 Without limiting clause X.8, in performing the Contract, the Supplier must:</p> <ul style="list-style-type: none"> (a) not require Personnel to pay fees, charges, expenses or financial obligations incurred in order for the Personnel to secure their employment or placement (Recruitment Fees), regardless of the manner, timing or location of the imposition or collection of these Recruitment Fees; (b) not destroy or exclusively possess, whether permanently or otherwise, the travel or identity documents of Personnel; and (c) ensure Personnel can access a Grievance Mechanism to safely report any instances of Modern Slavery in the operations and supply chains used by the Supplier in its performance of this Contract.
<p>Drafting Notes</p> <p>This clause would be appropriate for contracts which are assessed as having a low risk of Modern Slavery practices occurring in the performance of the contract.</p> <p>Users should consider the interaction of this clause with any provisions dealing with subcontractors – to ensure the Supplier imposes similar obligations on its subcontractors. Users should also consider this clause in the context of other provisions dealing with performance management and termination.</p> <p>Standardisation of contractual text results in efficiencies for both parties to a contract. Before deciding whether a particular clause is appropriate,</p>	<p>Drafting Notes</p> <p>This clause would be appropriate for contracts which are assessed as having a moderate risk of Modern Slavery practices occurring in the performance of the contract.</p> <p>The clause includes obligations for the Supplier to ensure relevant Personnel have suitable training about Modern Slavery and prepare a Modern Slavery Risk Management Plan. Where a contract already includes a requirement for a risk management plan, an option would be to incorporate the management of modern slavery risks in that plan – and to adjust the relevant clauses accordingly.</p> <p>There are also obligations for the Supplier to manage specific risks of Modern Slavery as well as remediate any adverse impacts of modern</p>	<p>Drafting Notes</p> <p>While use of this clause is optional, it may be sensible to include a clause of this type in contracts which are assessed as having a high risk of Modern Slavery involved in the provision of the Goods and/or Services.</p> <p>The clause includes obligations for the Supplier to ensure relevant Personnel have suitable training about Modern Slavery and prepare a Modern Slavery Risk Management Plan. It also provides the Customer with a right to review and suggest amendments to the Modern Slavery Risk Management Plan so that the Customer can ensure such risks are appropriately managed. Where a contract already includes a requirement for a risk management plan, an option would be to</p>

Option 1 – Short form	Option 2 - Standard	Option 3 – Long form
<p>procurement officials should carefully consider the context of their procurement.</p> <p>Capitalised terms (unless otherwise defined) are based on the definitions in the CCS Glossary. Defined terms should be reviewed to ensure they align with the Contract terminology more generally – in particular, ensuring that terms are not duplicated and that the intended meaning and scope is consistent. Users may include any defined terms in the contract’s general definitions clause.</p>	<p>slavery practices identified in the Supplier’s supply chain and operations.</p> <p>Users should consider the interaction of this clause with any provisions dealing with subcontractors – to ensure the Supplier imposes similar obligations on its subcontractors. Users should also consider this clause in the context of other provisions dealing with performance management and termination.</p> <p>Standardisation of contractual text results in efficiencies for both parties to a contract. Before deciding whether a particular clause is appropriate, procurement officials should carefully consider the context of their procurement.</p> <p>Capitalised terms (unless otherwise defined) are based on the definitions in the CCS Glossary. Defined terms should be reviewed to ensure they align with the Contract terminology more generally – in particular, ensuring that terms are not duplicated and that the intended meaning and scope is consistent. Users may include any defined terms in the contract’s general definitions clause.</p>	<p>incorporate the management of modern slavery risks in that plan – and to adjust the relevant clauses accordingly.</p> <p>There are also obligations for the Supplier to manage specific risks of Modern Slavery as well as notify the Customer about Modern Slavery practices identified in the Supplier’s supply chain and operations and to remediate any adverse impacts. Where Modern Slavery practices arise, the Supplier must consult with and provide updates to the Customer about its actions to address and remove these practices and its steps to remediate the adverse impacts.</p> <p>Users should consider the interaction of this clause with any provisions dealing with subcontractors – to ensure the Supplier imposes similar obligations on its subcontractors. Users should also consider this clause in the context of other provisions dealing with performance management and termination.</p> <p>Standardisation of contractual text results in efficiencies for both parties to a contract. Before deciding whether a particular clause is appropriate, procurement officials should carefully consider the context of their procurement.</p> <p>Capitalised terms (unless otherwise defined) are based on the definitions in the CCS Glossary. Defined terms should be reviewed to ensure they align with the Contract terminology – in particular, ensuring that terms are not duplicated and that the intended meaning and scope is consistent. Users may include any defined terms in the contract’s general definitions clause.</p>