



## Overview of key Business & Human Rights Legislation for companies



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In September 2013 the UK Government issued an action plan entitled “Good Business Implementing the UN Guiding Principles on Business and Human Rights” <sup>[1]</sup>. The UN Guiding Principles on Business and Human Rights <sup>[2]</sup> establish the State’s duty to protect human rights and provide adequate redress in the case of infringement by the private sector. The document reinforces the UK Government’s commitment to ensuring businesses and other private sector organisations respect human rights.

As part of this agenda, regulation in this area is on the increase. Below is a table which outlines the main pieces of US, UK, and EU legislation, both in force and under consultation that companies should be aware of.

*(The following information was first published in HR Mag, December 2013 printed version.)*

<b>UK</b>	
<b>In Force:</b>	
s. 414 (c)(7) Companies Act 2006 (as amended by regulation 3 of the Companies Act 2006 (Strategic Report and Directors’ Report) Regulations 2013)	<p>Effective from October 1 2013</p> <p>Requires UK-incorporated companies that are listed on and London Stock Exchange, European Economic Area, or on New York Stock Exchange or Nasdaq (termed ‘quoted companies’) to compile a strategic report which must, to the extent necessary for an understanding of the development, performance or position of the company’s business, include, amongst other requirements, information about social, community and human rights issues. This includes disclosure on any policies in place in relation to these issues and their effectiveness, and Key Performance Indicators on employee and environmental issues. If the report does not contain information on these issues it must state which of those kinds of information it does not contain.</p> <p>This applies to companies with financial years ending on or after 30th September 2013. Therefore any annual report published by a quoted company from October 1st 2013 onwards, must contain a strategic report with the above requirements.</p>
<b>UK</b>	
<b>Potential:</b>	
Consultations on Modern Day Slavery Bill	<p>Evidence review opened in October 2013</p> <p>The findings will inform a draft Modern Slavery Bill that the government intends to publish this session for pre-legislative scrutiny. The aim is to introduce the bill next session. Amongst other points, the review is seeking to address how British multinationals can adequately ensure that their supply chains are free from slavery.</p>
Transparency in UK Company Supply Chains (Eradication of Slavery) Bill 2012-2013	<p>This Bill did not complete its passage through Parliament</p> <p>Its requirements mirrored the California equivalent, stating that every company operating in the United Kingdom and having annual worldwide gross receipts exceeding £100,000,000 shall disclose its efforts to eradicate slavery, human trafficking, forced labour and the worst forms of child labour from its direct supply chains for tangible goods and services offered for sale.</p> <p>A consultation on the introduction of a modern slavery bill is currently being considered</p>

[1] [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/236901/BHR\\_Action\\_Plan\\_-\\_final\\_online\\_version\\_1\\_.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/236901/BHR_Action_Plan_-_final_online_version_1_.pdf)

[2] [http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR\\_EN.pdf](http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf)

Proposal for a Human Trafficking (Scotland) Bill	<p>Consultations closing on December 6 2013</p> <p>Amongst its aims includes a consideration of how to engender, through a voluntary partnership approach, large companies operating in Scotland to take transparent responsibility to prevent, identify, and tackle human trafficking in their supply chains, reflecting best practice from California.</p>
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**USA**

**In Force:**

California Transparency in Supply Chains Act of 2010	<p>Enacted September 30 2010; Effective January 1 2012.</p> <p>Requires all retail sellers and manufacturers having over \$100,000,000 in annual worldwide gross receipts and doing business in the state of California to disclose their efforts, if any, to eradicate slavery and human trafficking from their direct supply chains for tangible goods offered for sale</p>
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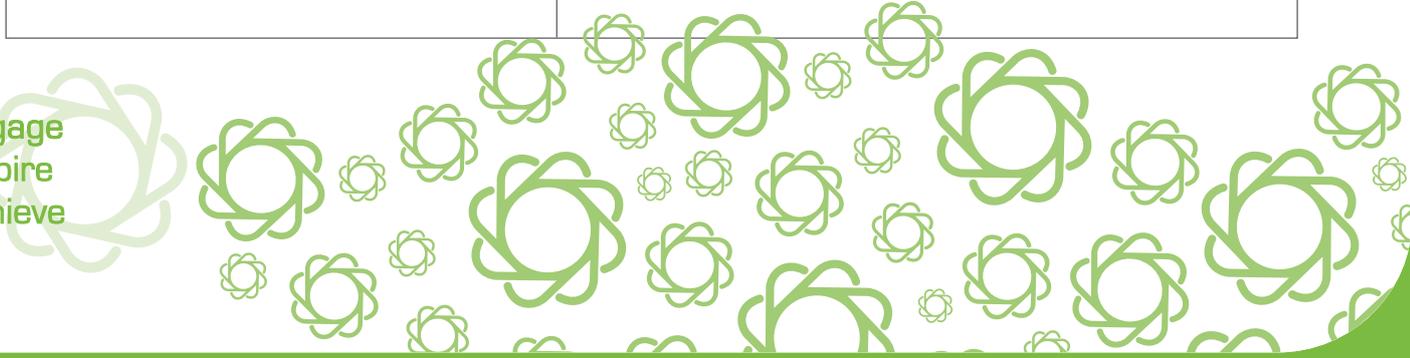
Section 1502 of the Dodd-Frank Act	<p>Enacted July 21 2010; Final rule on disclosures from August 22 2012</p> <p>Requires US Securities and Exchange Commission (i.e. SEC) "issuers" (including foreign issuers) that manufacture or contract to manufacture products where "conflict minerals are necessary to the functionality or production" of the product to disclose about the use of specified conflict minerals originating from the DRC and nine neighbouring Central African countries ("Covered Countries").</p> <p>Currently, conflict minerals include cassiterite, columbite-tantalite, gold and wolframite originating from the Covered Countries. Trade in them is strongly believed to fund armed conflict, leading to continued human rights abuses in the region.</p> <p>The final rule exempts any conflict minerals that are "outside the supply chain" before January 31 2013. Conflict minerals are "outside the supply chain" only "after any columbite-tantalite, cassiterite, and wolframite minerals have been smelted; after gold has been fully refined; or after any conflict mineral, or its derivatives, that have not been smelted or fully refined are located outside of the Covered Countries."</p>
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**EU**

**Potential:**

<p>Proposal 2013/0110 (COD) amending Council Directives 78/660/EEC and 83/349/EEC as regards disclosure of non-financial and diversity information by certain large companies and groups.</p>	<p>Adopted on 16 April 2013</p> <p>The annual report shall include a fair review of the development and performance of the company's business and of its position. Companies whose average number of employees during the financial year exceeds 500 and, on their balance sheet dates, exceed either a balance sheet total of EUR 20 million or a net turnover of EUR 40 million, the review shall also include a non-financial statement including material information relating to at least environmental, social, and employee-related matters, respect of human rights, anti-corruption and bribery aspects. Within these areas, the statement will include (i) a description of its policies, (ii) results and (iii) risk-related aspects</p> <p>The proposal is now being considered by the European Parliament, Council and Member States. The Commission has indicated that companies may not be affected by any new requirements until 2017.</p>
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Public consultation on a possible EU initiative on responsible sourcing of minerals originating from conflict-affected and high-risk areas

Consultation closed June 26 2013

The Commission will use the results of the consultation to determine whether and how to effectively complement and/or continue on-going due diligence initiatives and support for good governance in mineral mining, particularly in developing countries affected by conflict.

In increasingly asking for disclosures on human rights matters, regulators are encouraging businesses to consider the negative ethical and social impacts they may be indirectly responsible for. The question for companies is whether to turn a blind eye to these growing responsibilities and legal compliance issues or show awareness and take action by:

1. ensuring that your own organisation's human rights policy is in place and being upheld internally, particularly in terms of the adequate training of your own department; and
2. collaborating with supplier's departments to make sure their policies, codes and standards are up to scratch and aligned with that of your organisation.

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