

Take Note – New Guidance Issued For Mandatory Supply Chain Reporting Requirements



Following the inaugural reporting period under Canada's modern slavery and supply chain legislation, Public Safety Canada has now released updated guidance ("**the Guidance**") to enhance clarity and address common questions for the upcoming 2025 reporting cycle.¹

The Guidance clarifies reporting requirements, including definitions of "goods," "importing," and "control" over entities, describes activities that trigger a reporting obligation, and outlines the purpose of the online questionnaire, among other topics.

We outline key parts of the Guidance for the 2025 reporting period and parts of the Guidance that suggest common errors and confusion seen in 2024.

Background

The *Fighting Against Forced Labour and Child Labour in Supply Chains Act* ("**the Act**"), previously Bill S-211, came into force on January 1, 2024. The first reports were due on May 31, 2024. The McMillan team previously provided an [overview](#) of the Act's requirements and discussed previous [Guidance](#) from Public Safety Canada.²

Updated Guidance for 2025

The Guidance offers helpful clarifications, which we discuss below.

Application of the Act – “Entity”

As a reminder, the Act applies to any entity that

1. is listed on a stock exchange in Canada; or
2. has a place of business in Canada, does business in Canada, or has assets in Canada and that, based on its consolidated financial statements, meets at least two of the following conditions for at least one of its two most recent financial years:

1. Has at least \$20 million in assets;
2. Has generated at least \$40 million in revenue; and
3. Employs an average of at least 250 people.

The Guidance reiterates that criteria a) and b) are exclusive. For example, a business that is listed on a stock exchange in Canada is an entity under the Act even if it does not have a place of business in Canada or meet any of the size thresholds.³

In addition, the size thresholds are to be evaluated based on a company's consolidated financial statements, but do not include revenue, assets, or employees of any organization that controls it, such as those of a parent company.

Importantly, the Guidance clarifies that “assets” in Canada refer only to **tangible** property in Canada. For example, intellectual property, securities, and goodwill are not assets under the Act.

Lastly, Public Safety Canada suggests that businesses use factors considered by the Canada Revenue Agency when determining if a person is “carrying on business in Canada”

for GST/HST purposes to determine whether they constitute an “entity”, such as locations where:

- Goods are produced, sold, or distributed;
- Employees are located;
- Deliveries, payments, purchases, or contracts are made or assets are acquired; and
- Assets, inventories, or bank accounts are located.

“Reporting” Entity – Clarity regarding Distribution and Importation

Where businesses determine they are an entity under the Act, there are specific considerations to determine whether that business has reporting obligations as a “reporting” entity.

Importantly, and consistent with earlier guidance, entities that exclusively distribute or sell goods are not mandated to report. Only entities that produce goods, import goods, or control another entity that produces or imports goods must report.

The Guidance clarifies the meaning of importing or producing goods into Canada, or controlling an entity that produces or imports, as a trigger for the reporting obligation, as follows:

- **Importing goods:** where the entity is the “true importer that, in reality, caused the goods to be brought into Canada.” Generally, this will be the entity that directly accounts for, or pays, the duties on the goods.
 - The Guidance also includes the material clarification that customs brokers, express couriers, trade consultants, and other third-parties that do business on behalf of the importer or account for goods for the importer will generally not be considered importers.
- **Goods:** include tangible physical property that is the subject of trade and commerce, excluding real property,

electricity, software services, and insurance plans.

- **Producing goods:** includes manufacturing, growing, extracting, and processing.
- **Control:** Guidance now refers to the Office of the Superintendent of Financial Institutions' criteria for assessing control, aiding entities in determining their reporting obligations concerning subsidiaries.⁴

Multiple Jurisdictions

Public Safety Canada confirms that entities may use the same report as filed in other jurisdictions so long as the final, filed report covers the appropriate reporting period and responds to all reporting requirements under the Canadian Act.

Joint Reports & Questionnaires

For entities that opt to file a joint report, only one entity, namely the one that submits the report, must submit a questionnaire.

The Guidance makes clear that the questionnaire collects information to facilitate reporting responses and is used internally for Public Safety Canada to catalogue and analyze reports.

The questionnaire does not need to be approved by the governing body. Public Safety also maintains a public electronic registry of all reports, as required by the Act. It does not make the questionnaires public although information taken from them is used in Public Safety Canada's annual report to Parliament on the Act.⁵

Implications and Next Steps

The submission deadline for the 2025 reporting period is May 31, 2025. Organizations should incorporate the Guidance into their 2025 reports to ensure compliance with the Act.

The 2024 Annual Report to Parliament on the Act notes that Public Safety Canada performed quality assurance checks and did not publish certain reports that contained no information relevant to the Act or that did not include proper attestation.⁶ Companies should ensure that their reports meet the statutory requirements and are accepted by Public Safety Canada for publication. Given past actions and its continued focus on compliance, it is likely that Public Safety Canada will continue to focus on working with businesses and government institutions to implement the Act's reporting requirements in 2025, rather than take enforcement actions against businesses.

Finally, Canadian and global businesses should be aware that Canada is considering implementing both due diligence based modern slavery legislation and stringent new border measures aimed at goods allegedly made of forced or child labour. The consultations specifically sought input on potential measures to enhance the current import ban, including by imposing a reverse-onus that would require importers appearing on a "goods at risk" list to provide documentation on the imported goods' supply chain and effectively prove the negative (that the goods are not made from forced labour or child labour). We discuss this development in our previous bulletin.⁷

Footnotes

1 Public Safety Canada, *Guidance for entities*, [online](#).

2 McMillan's team has written extensively on Bill S-211's developments. For more information, see: [Canadian Businesses Should Prepare for New Mandatory Reporting on Supply Chains and Forced Labour](#); [Combatting Forced Labour in Supply Chains from a Canadian Customs Perspective](#).

3 The Act also applies to certain Government Institutions. This bulletin focuses on entities, rather than on Government Institutions, though such institutions should also ensure they account for relevant guidance in preparing and filing their reports.

4 See: Office of the Superintendent of Financial Institutions, *Control in Fact*, [online](#).

5 Government of Canada, *2024 Annual Report to Parliament on the Fighting Against Forced Labour and Child Labour in Supply Chains Act*, [online](#).

6 Government of Canada, *2024 Annual Report to Parliament on the Fighting Against Forced Labour and Child Labour in Supply Chains Act*, [online](#). See also footnote 6.

7 See [Canada Proposes Stricter Supply Chain Requirements to Tackle Forced and Child Labour](#), October 30, 2024.

The foregoing provides only an overview and does not constitute legal advice. Readers are cautioned against making any decisions based on this material alone. Rather, specific legal advice should be obtained.

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Authors: [William Pellerin](#), [Sharon G.K. Singh](#), [Laurie Wright](#), [Tayler Farrell](#), [Brigid Martin](#)

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