



Towards Sustainable Mining



Preventing Child and
Forced Labour Protocol



PREVENTION OF CHILD AND FORCED LABOUR VERIFICATION PROTOCOL

This verification protocol is a tool for preventing the use of child and forced labour, as defined by International Labour Organization (ILO) Conventions 29, 138 and 182 addressing Forced Labour, Minimum Age, and the Worst Forms of Child Labour, respectively.¹

In Australia, 'modern slavery' is generally used to describe slavery, forced labour, debt bondage, human trafficking offences and the worst forms of child labour. Modern slavery is defined in Australia's *Modern Slavery Act 2018*.

Purpose

The purpose of the verification protocol is to provide guidance to member companies on verification requirements regarding systems to prevent child and forced labour. The verification protocol sets out the general approach taken to verifying that processes are in place to ensure that neither child nor forced labour as defined by ILO conventions and Australian laws occur at TSM participating facilities.

The verification process may support modern slavery due diligence required by certain entities (e.g. large companies) under Australia's *Modern Slavery Act 2018*. Requirements under the Act may also assist to meet TSM requirements. However, TSM compliance will not satisfy requirements under the Modern Slavery Act given the law's scope regarding activities in domestic operations and supply chains.

As with any assessment of a company's management systems, professional judgement is required in assessing the degree of implementation of a system indicator and the quality of management processes and intervention. Application of this protocol will therefore require a level of expertise in auditing and systems assessment and knowledge of and experience in the practice of labour practices, including relevant regulatory regimes and requirements. This protocol provides an indicator of the verification approach to ensuring child and forced labour are not used and must be used in conjunction with the TSM Verification Service Provider Terms of Reference. It is not, of itself, a guarantee of the effectiveness of labour practices.

TSM commitment regarding child and forced labour

As part of the TSM Guiding Principles, MCA members commit to *respecting* the rights of our workers and not engaging in practices of forced or child labour, as defined in ILO Conventions 29, 138 and 182.

Key components of ILO 29 on forced labour

[ILO 29, Forced Labour Convention](#)

This Convention defined forced labour as 'all work or services which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily'. The Convention recognises several exceptions including military service, normal civic obligations, and court ordered work due to a conviction and work extracted in cases of emergency.

Australia ratified the Protocol of 2014 to the Convention in 2022.

¹ International Labour Organization – [Ratifications by country](#)

Key components of ILO 138 and 182 on Child Labour

[ILO 138, Minimum Age Convention](#)

This Convention established a minimum age requirements for child labour. The convention sets the minimum age of employment at 15 years of age and further establishes 18 years of age as the minimum age for work that, by its nature or the circumstances in which it is carried out is likely to jeopardise the health, safety, or morals of young persons. The types of work that are deemed to jeopardise the health, safety or morals of young persons are specified in national laws or regulations, or by competent authorities. There are exceptions contained in ILO 138 that allow for workers under the age of 15 in some circumstances, but such exceptions are not applicable to mining. These ILO conventions also specify mitigation measures to be taken where child labour is already taking place, including:

- Removing children from the worst forms of child labour and providing for their rehabilitation and social integration
- Providing access to free basic education and, wherever possible and appropriate, vocational training.

[ILO 182, Worst forms of child labour](#)

This convention identifies four specific types of child labour that are deemed to be the ‘worst forms’ and requires that measures be taken to prevent the engagement of children in these forms of labour. Two of the four specified types of the worst forms of child labour are relevant in the mining context:

- All forms of slavery or practices like slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict.
- Work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety, or morals of children.

As with the Minimum Age Convention, ILO 182 relies on national laws and regulations to determine what constitutes work that is likely to harm the health, safety and morals of children.

Verification of commitment

The approach is to focus on ensuring implementation of the commitment to not use child or forced labour as articulated in the TSM Guiding Principles. Specifically, the company should have mechanisms to prevent child and forced labour, which can be demonstrated publicly.

To accomplish this, TSM Verification Service Providers are instructed to incorporate the questions listed in the child and forced labour sections below into any TSM verifications they conduct for members of the MCA.

In Australia, large companies are required to comply with the Modern Slavery Act, including issuing an annual modern slavery statement that will likely include information relevant to this protocol. Accordingly, verification may include the plans and policies that underpin the statement.

Where a company's modern slavery statement satisfies protocol requirements and has been assured, this is deemed to satisfy verification requirements.

INDICATOR 1: PREVENTING FORCED LABOUR

Requirement

Companies have in place processes that are commensurate to jurisdictional and sectoral risk to ensure forced labour is not used.

Verification Instructions

Through interview and review of documentation, determine that:

- There are processes in place that are commensurate to jurisdictional and sectoral risks to ensure forced labour, including bonded or indentured or involuntary prison labour, is not used.
- Where there is a high risk of forced labour, processes have been put into place to monitor supply chains and relationships with recruitment agencies for human trafficking and forced labour.²

² Australia's Modern Slavery Act requirements include all risks

INDICATOR 2: PREVENTING CHILD LABOUR

Requirement

Member companies have processes in place that are commensurate to the jurisdictional and sectoral risks to ensure that no child under the age of 18 engages in work that, by its nature or circumstances in which it is carried out, is likely to jeopardise the health, safety or morals of young persons as defined in national law or regulation and that no child under the age of 15 is employed.

Verification Instructions

Through interview and review of documentation, determine that:

- There are processes in place that are commensurate to jurisdictional and sectoral risks to ensure that no child under the age of 18 engages in work which by its nature or the circumstances in which it is carried out is likely to jeopardise the health, safety or morals of young persons as defined in national law or regulation.
- There are processes in place that are commensurate to jurisdictional and sectoral risks to ensure that no child under the age of 15 is employed.

APPENDIX 1: FREQUENTLY ASKED QUESTIONS

Protocol-specific guidance

1. What is the relationship between the protocol and the Australian Modern Slavery Act?

The Prevention of Child and Forced Labour Protocol assists companies to prevent child and forced labour by focusing on the controls and processes to prevent these two offences at the mine site-level and first-tier suppliers.

Forced labour and the worst forms of child labour are illegal in Australia. In Australia, these offences are often described as a form of modern slavery – a term that encompasses slavery, slavery-like practices, human trafficking and the worst forms of child labour.

Under the Australian Modern Slavery Act, large Australian companies and companies carrying on a business in Australia are required to publish an annual statement that meets seven mandatory criteria. These include reporting on the risks of modern slavery in their operations and supply chains, the actions taken to assess and address the risks, and how the company assesses the effectiveness of these actions. Statements must also be approved by the principal governing body (such as its board) and signed by a responsible member of the entity prior to their publication.

Reporting guidance on the Australian *Modern Slavery Act* references the UN Guiding Principles on Business and Human Rights to explain how companies could be involved in modern slavery through their own activities and business relationships, and the expectations on business to know and show that they are managing these risks through due diligence and remediation processes. This includes explaining the potential for an entity to cause, contribute to, or be directly linked to modern slavery through its operations and supply chains’.

The guidance states that the Modern Slavery Act does not set a minimum requirement for how many tiers of a company’s supply chain it must examine. Modern slavery risks may be present anywhere in a company’s global and domestic operations and supply chains must be considered.

2. Does this protocol satisfy the requirements of Australia’s Modern Slavery Act?

Compliance with the requirements of this protocol does not satisfy the requirements of the Australian Modern Slavery Act as the protocol only covers forced and child labour and is focused on first-tier suppliers. However, it can be used to support a company’s modern slavery due diligence activities and/or be part of its anti-slavery plan. For example, the company may describe in its modern slavery statement that TSM verification has been used to help assess the effectiveness of its modern slavery risk management approach.

3. Does a modern slavery statement satisfy the requirements of protocol?

Modern Slavery Act requirements, while more comprehensive than this protocol, have a disclosure focus. Given this, compliance with the Act may not fully satisfy this protocol (i.e. if a company has not put in place policies and processes in action to prevent and address forced and child labour risks) even where protocol requirements are addressed in the statement, verification against specific criteria may still be required. In cases where the statement is independently assured, further verification is not required.

TSM Indicator	Related Modern Slavery Act Requirements
<p>Preventing Forced Labour</p> <ol style="list-style-type: none"> 1. There are processes in place that are commensurate to jurisdictional and sectoral risks to ensure forced labour, including bonded or indentured or involuntary prison labour is not used. 2. Where there is a high risk of forced labour, processes have been put into place to monitor supply chains and relationships with recruitment agencies for human trafficking and forced labour. <p>Preventing Child Labour</p> <ol style="list-style-type: none"> 1. There are processes in place that are commensurate to jurisdictional and sectoral risks to ensure that no child under the age of 18 engages in work which by its nature or the circumstances in which it is carried out is likely to jeopardise the health, safety or morals of young persons as defined in national law or regulation. 2. There are processes in place that are commensurate to jurisdictional and sectoral risks to ensure that no child under the age of 15 is employed. 	<p>Criteria 3: Describe the risks of modern slavery in the operations and supply chains of the reporting entity and any entities the reporting entity owns or controls, including how the entity may contribute to or be directly linked to modern slavery.</p> <p>Criteria 4: Describe the actions taken by the reporting entity and any entities that the reporting entity owns or controls to assess and address these risks, including due diligence and remediation.</p> <p>Central to these requirements is the need to take meaningful steps to identify and respond to modern slavery risks.</p> <p>Criteria 5: Describe how the reporting entity assesses the effectiveness of actions to assess and address modern slavery risks.</p>

4. How does TSM define forced labour?

TSM uses the definition contained in ILO Convention 29. In Australia, forced labour is considered a form of modern slavery.

5. What are examples of the types of processes used to prevent forced labour?

Some of the common processes for preventing the use of forced labour include are those that:

- Prevent the unreasonable restrictions of freedom of movement of employees in the workplace or in on-site housing
- Avoid retaining original copies of employee personal documentation, such as identity papers
- Prohibit requiring any form of deposit, recruitment fee, or equipment advance from employees either directly or through recruitment agencies
- Avoid practices that prevent employees from terminating their employment after reasonable notice or as established by relevant national, state and territory laws
- Improve company and site-level staff and management awareness of forced and child labour risks through awareness-raising and training, including staff orientation and ensuring training is fit-for-purpose
- Establishing a grievance mechanism to enable stakeholders, including employees, supply chain workers and communities, to raise concerns related to forced labour as well as requiring suppliers to do the same for their own workers and suppliers

- Clearly communicate expectations to suppliers by ensuring that forced and child labour issues are specifically addressed in supplier contracts, prequalification and other relevant mechanisms.

Forced labour risks are present in all countries, sectors and communities. A risk-based approach to supply chains includes consideration of jurisdictional and sector risk profiles as well as the product and entity risks.

6. How does TSM define child labour?

TSM uses the definition contained in ILO Convention 138, which established a minimum working age of 15, with 18 as the minimum age for work which due to its nature or the circumstances in which it is carried out is likely to jeopardise the health, safety or morals of young people as specified by national laws, regulations or competent authorities. There are exceptions in ILO 138 that allow workers younger than 15, but these do not apply to the mining industry.

This protocol also incorporates ILO Convention 182, Worst Forms of Child Labour, which identified the four worst forms of child labour and measures to prevent them. Two of the four specified are relevant to the mining industry:

- All forms of slavery or practices like slavery, such as the sale and trafficking of children, debt bondage, serfdom, forced or compulsory labour and the forced or compulsory recruitment of children for use in armed conflict
- Work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety, or morals of children.

As with ILO 138, ILO 182 relies on national laws and regulations to determine what constitutes work that is likely to harm the health, safety, and morals of children.

7. Are any other mining-related standards deemed to be equivalent to TSM with respect to child and forced labour?

Yes. Companies that have had their child and forced labour prevention processes audited or verified under either the International Finance Corporation (IFC) Performance Standards, ICMM, World Gold Council, Risk Readiness Assessment or the Responsible Jewellery Council are deemed to have demonstrated that they have processes in place for the purposes of this verification protocol.

The Initiative for Responsible Mining Assurance (IRMA) standards on child and forced labour are also deemed equivalent to the TSM requirements through the Mining, Minerals and Metals Standards Partnership Integrated Assessment Tool.

8. Are there any useful guidance documents related to preventing child and forced labour?

With respect to implementing processes to prevent child and forced labour, useful guidance documents include:

- [UN Guiding Principles on Business and Human Rights](#)
- [The Commonwealth Modern Slavery Act 2018: Guidance for Reporting Entities](#)
- [Corporate Responsibility to Protect Human Rights: An Interpretive Guide](#)
- ILO Child Labour Guidance Tool for Business: [How to do Business with Respect for Children's Right to be Free from Child Labour](#)
- ILO Combating Forced Labour – [A Handbook for Employers & Business](#)
- [OECD Due Diligence Guidance for Responsible Business Conduct](#)
- [Respect for human rights](#): Guidance to assist mining companies to identify and manage modern slavery risks associated with the COVID-19 pandemic

- [UNICEF Child Labour Resource Guide](#)
- [UNICEF Child Rights and Mining Toolkit](#)
- US Department of Labour: [List of Goods Produced by Child or Forced Labour](#)
- Walk Free Foundation [Resources](#)

An extensive resources list is also available on the MCA [website](#).

9. How do the ILO Conventions on child labour align with Australia's labour laws?

While Australia has yet to ratify ILO 138, the Australian Government has stated that national, state and territory laws and practices meet its aims, and ratification is likely.³ In Australia, the age you can start work depends on the state or territory where you work. Some states and territories have minimum age requirements for mining.

Practically, the principle of the effective abolition of child labour is achieved Australia by Commonwealth, State and Territory legislation providing for compulsory attendance at school to at least age 15, minimum ages for employment in selected occupations, child welfare legislation, and occupational safety and health standards. Where relevant labour laws exist, compliance should be seen to satisfy these requirements at the facility level.

Australia ratified the Protocol of 2014 to Forced Labour Convention (No. 29) in 2022. This Protocol addresses the causes and complexity of modern slavery. Following Western Australia passing relevant laws in 2021, all states and territories have laws to ensure compliance.

³ International Labor Organisation, [Australia - Country Baseline Under the ILO Declaration \(2000-2018\)](#), ILO, New York, 22 July 2020, pp. 1-2.

Table 1 Australian Child Labour Regulations

Jurisdiction	Legislation/ Regulation	Restrictions on Employing Children	Mining-related Restrictions	Minimum Age U/G Mine	Minimum Age Surface Mine
National	<u><i>Black Coal Mining Industry Award 2010</i></u>	*Subject to other laws permitting 'junior' employees to work in the coal mining industry, the award states that a 'junior' can be aged 15–16.	n/a	15*	15*
	<u><i>Mining Industry Award 2020</i></u>	*Subject to other laws permitting 'junior' employees to work in the mining industry, the award states that a 'junior' can be 16.	n/a	16*	16*
New South Wales	<u><i>Work Health and Safety (Mines and Petroleum Sites) Regulation 2014</i></u>			18 16 ^[1] for an apprentice or trainee	16 ^[2]
Northern Territory	<u><i>Work Health and Safety (National Uniform Legislation) Act 2011</i></u> <u><i>Work Health And Safety (National Uniform Legislation) Regulations 2011</i></u>	No	No	Not mentioned	Not mentioned
	<u><i>Care and Protection of Children Act 2007 (NT)</i></u>	Yes Part 3.2 sets out general restrictions on the employment of children. The minimum working age is 15 years. There are no provisions specific to mining.	No	15	15

[1] Work Health and Safety (Mines and Petroleum Sites) Regulation 2014, section 36(1)(a) and section 36(2).

[2] Work Health and Safety (Mines and Petroleum Sites) Regulation 2014, section 36(1) (a)

Jurisdiction	Legislation/ Regulation	Restrictions on Employing Children	Mining-related Restrictions	Minimum Age U/G Mine	Minimum Age Surface Mine
Queensland	<u><i>Coal Mining Safety and Health Act 1999</i></u> <u><i>Mining and Quarrying Safety and Health Act 1999</i></u>			16 ^[3]	16 ^[4]
South Australia	<u><i>Work Health and Safety Act 2012</i></u> <u><i>Work Health and Safety Regulations 2012</i></u>			18 16 for an apprentice [5]	
Tasmania	<u><i>Mines Work Health and Safety (Supplementary Requirements) Act 2012</i></u> <u><i>Mines Work Health and Safety (Supplementary Requirements) Regulation 2012</i></u> <u><i>Work Health and Safety Act 2012</i></u> <u><i>Work Health and Safety Regulations 2012</i></u>	No		Not mentioned	Not mentioned
Western Australia	<u><i>Mines Safety and Inspection Regulations 1995</i></u>			18 ^[6] (except for apprentices)	16
Victoria	<u><i>Occupational Health and Safety Regulations 2017</i></u>	Yes Note: <i>The <u>Child Employment Act 2003</u> sets out the minimum working age in non-mining contexts at 13.</i>	Yes	18 16 for an apprentice	16

[3] *Coal Mining Safety and Health Act 1999, section 272. Mining and Quarrying Safety and Health Act 1999 section 250*

[4] *Coal Mining Safety and Health Act 1999, section 272A. Mining and Quarrying Safety and Health Act 1999 section 250*

[5] *Work Health and Safety Regulations 2012, section 634.*

[6] *Mines Safety and Inspection Regulations 1995, section 10.4(1).*

10. How far up the supply chain should MCA member companies conduct due diligence with regards to the use of child or forced labour?

For facilities sourcing from jurisdictions where there is a low risk of the use of child or forced labour in the supply chain, additional processes to monitor supply chains are not required.⁴

Facilities sourcing feedstocks (e.g. concentrates for a smelter or ore purchased from third parties to feed a mill) from jurisdictions where there are risks of child or forced labour should evaluate and mitigate risks of child labour at least one step up the supply chain. One way to demonstrate due diligence is to incorporate standards related to forced and child labour into selection processes and contractual documentation. Additionally, it is good practice for facilities to require that their suppliers apply the same due diligence for at least one step upstream.

Facilities operating in jurisdictions where there are risks that child or forced labour in the supply chain are encouraged to begin evaluating the local sources of goods, and supplies received, and to look at least one step upstream.

Company policies and practices may exacerbate forced labour risks in supply chains. For example, enforcing stringent requirements (e.g. unrealistic timeframes) for goods and services heightens the risk of forced labour. Factory shutdowns, order cancellations, workforce reductions and sudden changes to supply chain structures can disproportionately affect some workers and increase their exposure to forms of exploitation.

A sector's risk profile in is also a key element to consider in assessing and managing child and forced labour risks and broader modern slavery risks in supply chains. For example, the cleaning industry is considered a high-risk sector for forced labour in Australia

The types of management processes and actions to prevent forced labour will vary from sector to sector. For example, typical due diligence/preventative actions in the cleaning industry may include:

- Requiring cleaning contract companies to comply with a code of conduct prohibiting forced labour
- Verifying that cleaning contractors are paid into a bank account
- Undertaking site audits and inspections
- Educating contractors so that they understand what forced labour is, the company's expectations around preventing forced labour and the consequences for non-compliance
- Establishing a grievance mechanism (a formal process to address allegations).

Modern Slavery Act considerations

In considering supply chain risks, modern slavery, as described in Australia legislation, captures a broader range of risks and is not limited to child and forced labour.

11. How do these requirements apply to different levels of an organisation? Sites (domestic and international), corporation?

The protocol is aimed at facilities, as all TSM protocols are, and reporting occurs at the facility level. However, as many companies manage these risks using corporate controls, such controls can be used as evidence of having addressed these criteria. However, additional controls at the facility-level may be necessary where there is a higher risk of forced or child labour.

⁴ UNICEF and Global Child Forum, Children's Rights and Business Atlas: <https://www.unicef.org/csr/businessatlas.htm>

12. How can the age-related requirements of the protocol be verified?

Corporate policy statements, commitments or human resource procedures may be used to verify whether a company meets the requirements of this protocol. Human Resources departments will likely have a list of the age of employees in their records that can be used to verify the age of employees. Verifiers may also confirm aspects of the protocol by including related questions during their interviews on other TSM requirements. If verifiers are on-site, they can observe whether child labour is being used.

In high-risk jurisdictions, additional methods may be required to verify the age-related aspects of the protocol.

13. How can the forced labour requirements of the protocol be verified?

Corporate policy statements, commitments or human resource procedures may be used to verify whether a company meets the requirements of this protocol. Labour agreements or employee manuals are likely to document the how often and how much employees are paid. If verifiers are on-site, they can observe whether forced labour is being used.

14. In developing countries, verifying these protocols will be more difficult than in countries where labour laws are well developed and respected. What additional measures should be taken to verify that forced labour is not used?

Verifying this protocol in some developing countries can be challenging. Companies using this protocol are expected to develop processes commensurate with the risk. Verifiers should expect processes to be more robust in jurisdictions associated with higher risks of child and forced labour. This may mean that the facility has developed stronger internal processes or controls.

In low-risk jurisdictions verifiers may need to rely on processes, controls, and the regulatory environment, as opposed to higher risk jurisdictions where they should look for evidence that the processes are being implemented. Verifiers should focus on determining whether such processes or controls have been developed and should look for evidence to determine whether they are being implemented.

APPENDIX 2: PREVENTING CHILD AND FORCED LABOUR CHECKLIST

SELF ASSESSMENT CHECKLIST

Facility Name:		Company Name:	
Assessed By:		Date Submitted:	

Supporting Documentation / Evidence:	
NAME OF DOCUMENT	LOCATION

Interviewees:			
NAME	POSITION	NAME	POSITION

INDICATOR 1: PREVENTING FORCED LABOUR

	QUESTION	Y	N	DESCRIPTION & EVIDENCE
Indicator 1	Are there processes in place that are commensurate to jurisdictional and sectoral risks to ensure forced labour, including bonded or indentured or involuntary prison labour, is not used?			
	Where there is a high risk of forced labour, are there processes that have been put into place to monitor supply chains and relationships with recruitment agencies for human trafficking and forced labour?			
	If you have answered “Yes” to all of the questions, assign a “Yes” for this indicator. Otherwise, assign a “No”.			
	ASSESSED LEVEL OF PERFORMANCE FOR INDICATOR 1		Y / N:	

INDICATOR 2: PREVENTING CHILD LABOUR

	QUESTION	Y	N	DESCRIPTION & EVIDENCE
Indicator 2	Are there processes in place that are commensurate to jurisdictional and sectoral risks to ensure that no child under the age of 18 engages in work which by its nature or the circumstances in which it is carried out is likely to jeopardise the health, safety or morals of young persons as defined in national law or regulation?			
	Are there processes in place that are commensurate to jurisdictional and sectoral risks to ensure that no child under the age of 15 is employed?			
	If you have answered “Yes” to all of the questions, assign a “Yes” for this indicator. Otherwise, assign a “No”.			
	ASSESSED LEVEL OF PERFORMANCE FOR INDICATOR 2		Y / N:	