



**The National Board
of Social Services**

2nd Version

AVOID HIDDEN FORCED LABOUR

Guidelines for businesses and
employers

DANISH CENTRE **AGAINST** HUMAN TRAFFICKING

Knowledge for mutual benefit

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WHY INTRODUCE GUIDELINES FOR BUSINESSES?

In recent years several Danish business sectors have faced a number of new challenges in connection with the use of foreign labour and supply chains. This has resulted in cases regarding poor working conditions and, in the worst incidents, trafficking for forced labour. Industries where many unskilled and relatively low-wage foreigners are employed are particularly at risk, such as cleaning, agriculture and horticulture, construction, transportation and distribution as well as in hotels and restaurants. In these sectors it can be difficult for companies to have a full overview of working conditions for all employees, especially if subcontractors are used or if work is performed in remote areas or at odd hours. As a consequence, companies may risk being unintentionally associated with human trafficking for forced labour. Therefore, the Danish Centre against Human Trafficking (CMM) has developed guidelines in dialogue with relevant stakeholders and partners, which can be used both to examine whether your business is at risk of being associated with forced labour and also to prevent or reduce the risk of forced labour in your company or among your sub-contractors.¹ The guidelines are part of the *Nordic Counter-Trafficking for Forced Labour Project*, which has received support from the Nordic Council of Ministers.

HOW CAN THE GUIDELINES BE USED?

Awareness and risk management

These guidelines provide a **concise handbook for companies and employers** regarding the risk of human trafficking for forced labour. They suggest methods to help you avoid being associated with such cases that, in addition to the significant negative impact on the victims, can also damage the reputation of your business. The guidelines are therefore an **awareness and risk management tool** for businesses, which includes a quick risk assessment to spot the indicators of forced labour. If you recognise several of the incidents described in relation to the workplace (for instance through subcontractors) we advise you to investigate the situation further and contact the relevant authorities.

Simple checklists

The guidelines include checklists (pages 9-11) which detail a range of recommendations companies can implement to reduce the risk of hidden forced labour.

- » **Checklist A** concerns general company practice regarding trafficking for forced labour.
- » **Checklist B** concerns the recruitment and the management of employees.
- » **Checklist C** concerns the use of (sub)contractors.

The lists may be regarded as *general recommendations* for actions to reduce the risk of forced labour. The extent to which the individual items are relevant will largely depend upon the size of the company and the sector in question.

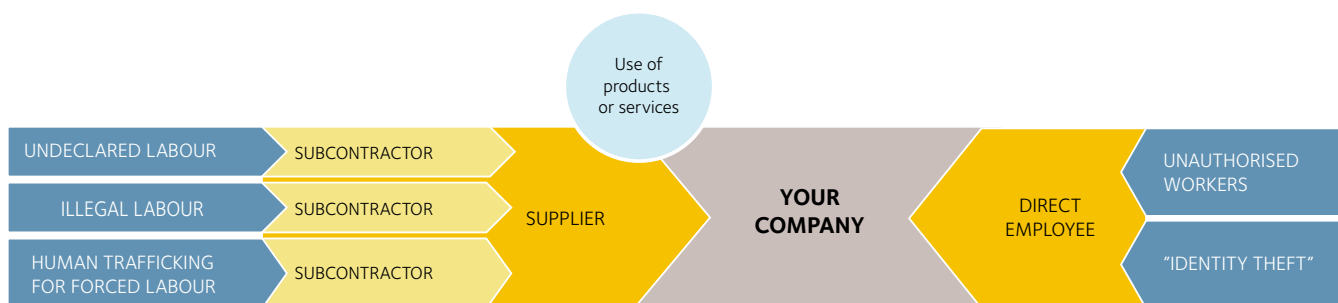
¹ CMM identifies victims of human trafficking and develops and provides social assistance and support for victims. Furthermore, CMM coordinates cooperation in the area and gathers and disseminates knowledge and statistics cf. the Danish National Action Plan to Combat Human Trafficking 2019-2021.

HOW CAN YOUR BUSINESS BE LINKED WITH HIDDEN FORCED LABOUR?

Employees and temporary/casual staff who are subjected to human trafficking for forced labour often stay quiet about their situation due to threats or fear of reprisals from traffickers. Critical conditions in a company or workplace are thus more likely to be revealed by others, such as authorities, alert employers, trade unions or members of the public.

It is often difficult to gain a full picture of whether a person is being subjected to human trafficking for forced labour. One must therefore act based on a feeling that ‘something is wrong’ and on information gained from observations or conversations with employees or others. See the list of indicators (red flags) on pages 7-8.

Your company can be associated with human trafficking for forced labour **in several ways**:



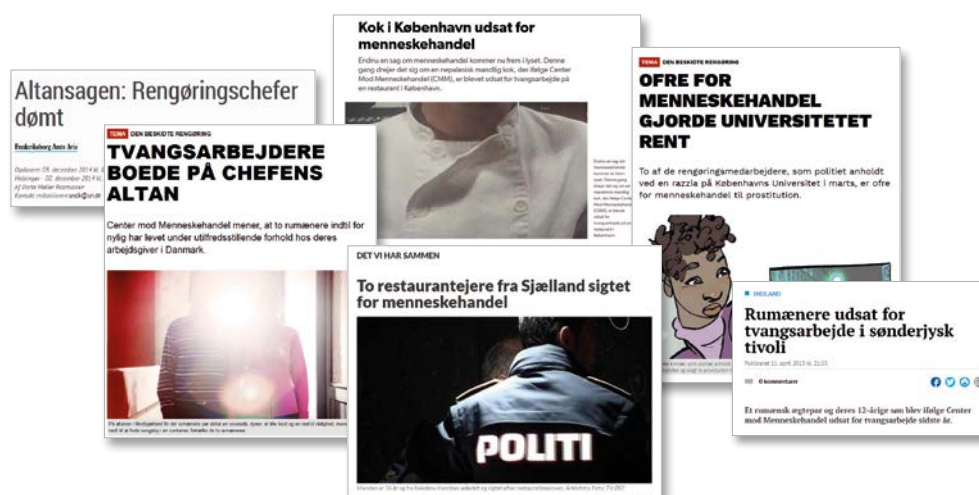
- » **Through subcontractors:** Extensive use of subcontractors may contribute to the creation of opacity around working conditions and may increase the risk of subcontractors using illegal or undeclared labour or, in the worst case, forced labour.
- » **Through employment:** Employment through temporary staffing agencies may create a lack of clarity with respect to work and contract conditions. Businesses should, however, also be alert when employing workers directly. For example, there may be a risk of identity theft or unauthorised persons may be present in the workplace, meaning that work is carried out by someone other than the actual employee.
- » **Through using your products or services:** Company products or services may be used by traffickers. This can lead to the company being associated with a critical case. This could for example occur if an airline, travel agency or hotel were being used to transport or house trafficking victims.



RISKS AND NEGATIVE CONSEQUENCES OF BEING LINKED WITH FORCED LABOUR

- » **Fines, punitive measures and damaged reputation:** If a violation of the law in this area occurs, there is a risk of charges that could lead to fines and/or imprisonment. Moreover, even if a business is not directly involved, it is still damaging to be associated with charges of trafficking for forced labour. It can lead to customer defection as well as declining sales and revenue.

The cost of being associated with human trafficking for forced labour can be high. Danish and foreign companies that have been involved in such cases have experienced negative media exposure resulting in serious damage to their reputation, loss of customers and a significant drop in revenue. The worst cases can lead to police investigation with subsequent lawsuits and convictions. In Denmark there have been incidents of trafficking for forced labour, incurring large costs for the companies involved. One example is the cleaning services company 'Forenede Service' that in 2013 was linked with human trafficking in their supply chain. Another recent example is a case regarding foreign truck drivers in a haulage company, who the Danish Centre against Human Trafficking identified as being victims of trafficking for forced labour. The case is still under investigation by the police.



Benefits for the company in reducing the risk of forced labour:

- » **Meeting requirements of customers and business associates:** Both public and private companies are being met with an increasing expectation of clients, customers or business associates that they should practice a more sustainable and responsible production as well as control of their supply chain. Therefore, clear and transparent policies on responsible corporate conduct according to the UN guidelines on human rights and business can be a branding benefit for the company.
- » **Strengthened social responsibility:** Having a proactive approach to combatting hidden forced labour in the supply chain can strengthen the Corporate Social Responsibility (CSR) profile of the company.
- » **Enhanced company image:** Actively working on reducing the risk of forced labour may contribute to strengthening the company's image internally among the employees as well as externally among customers and business contacts.
- » **Fighting unfair competition:** Businesses or supply chains with poor conditions for their employees benefit from unreasonably low wages and questionable working conditions. If businesses ensure proper working conditions it contributes to the wider fight to combat unfair competition in the different sectors.



QUICK RISK ASSESSMENT OF YOUR BUSINESS

Below is a list of 'red flags', which may be indicators of human trafficking for forced labour, either through direct employment, through contractors or through subcontractors.² On the right-hand side it is stated whether the examples apply to direct employment and/or use of (sub-) contractors. If several of these indicators are recognised in connection with a work situation, the conditions should be investigated, and advice and counselling should be sought from the Danish Centre against Human Trafficking on **hotline +45 70 20 25 50**. It is important to point out that these are just examples of warning signs, and that there may well be other circumstances that should raise suspicion.

Red flags:

THE RECRUITMENT AND EMPLOYMENT PROCESS

Direct
Indirect

- » **A group of foreign persons** are presented to the employer by a person with good Danish or English skills (but often of the same nationality and/or ethnicity as the employees) claiming to be a 'friend' or 'family member' or 'someone who wants to help'. The person speaks on behalf of the foreign employees and waits while these persons are at the job interview. ●
- » **Employment documents** submitted to the company are filled out in a higher level of Danish or English than mastered by the job applicant, or in a language that the job applicant does not master at all. ●
- » **The employment documents are delivered** by a third party, calling themselves a 'friend' or 'family member' or suchlike, on behalf of the job applicant. ● ●
- » **The applicant seems nervous** or secretive and/or acts as if s/he has received instructions from a third party. ● ●
- » A subcontractor uses many or an increasing number of **non-Danish speaking workers** of one particular nationality. ●
- » When comparing the employees' **phone numbers, addresses, or account information**, it becomes evident that several of them have given the same information. ● ●
- » **When comparing** the employees' contact persons in case of emergency, it becomes evident that several of them have listed the same person. ● ●

² The International Labour organization (ILO) has listed a number of indicators that are often present in situations where forced labour occurs. CMM's guidelines and risk assessment are structured around concrete examples, but overall build on the 11 ILO indicators of when a person is a victim of forced labour: 1) Abuse of vulnerability, 2) deception, 3) restriction of movement, 4) isolation, 5) physical and sexual violence, 6) intimidation and threats, 7) retention of identity documents, 8) withholding of wages, 9) debt bondage, 10) abusive working and living conditions, 11) excessive overtime. Read more about the ILO and conventions on forced labour on page 13.

WORKPLACE AND WORKING CONDITIONS

- » **Employees are transported** to and from the workplace by persons not employed at the workplace. ● ●
- » **One employee provides** food for the other employees at the workplace. ● ●
- » The employees show **signs of physical injury and/or poor nutrition** and their general appearance is untidy with clothing that is inadequate for the season. ● ●
- » The employees **seem nervous and cowed** (afraid of employer/trafficker/authorities). ● ●
- » The **employees are silent or provide vague information** when asked about their working conditions, including working hours and how/when they arrived in Denmark. ● ●
- » The employees are subject to **gross restriction of movement** at the workplace and/or at the workers' living quarters. ● ●
- » The employees are **not paid their wages**/the wages are withheld or they are extremely underpaid. ●
- » The employees have **no contract** and the work is not organised or the employees have a contract that does not match the work they are doing. Also when the employees have contracts that are 'too good to be true'. ●
- » The employees **work long hours**, including weekends. Possibly more hours than their contract states. ● ●
- » The employees are **financially indebted** to the supervisor, the recruitment company or others. ● ●
- » The employees have **no ID papers**. Identification documents and personal documents seem to have been confiscated and the employee cannot leave the site or document his/her identity/status. ● ●
- » The employees present **false identity/personal and/or travel documents**. ● ●
- » The employees have been **subject to threats** of being reported to the authorities and possibly also of physical violence. ● ●
- » The employees have no or limited access to **medical treatment**. ● ●

HOUSING CONDITIONS

- » **The employees say** that they are housed by a person working for the subcontractor or the recruitment agency. ● ●
- » The employer/subcontractor provides, for example, food and accommodation at **inflated prices** and deducts the amount from the wages so that the employee only gets a minimal or no income. ●
- » The employees live in **poor and/or overcrowded housing conditions** and/or with many employees housed in the same place. ● ●
- » The employees **live on-site** for example in rooms where construction is underway, back rooms, and basements. ● ●



CHECK YOUR BUSINESS AND REDUCE THE RISK OF FORCED LABOUR

Poor working conditions and hidden forced labour may occur in all sectors and businesses. In Denmark and other Western European countries, serious incidents of forced labour have occurred in cleaning, agriculture and horticulture, construction, transportation and distribution as well as in hotels and restaurants.

Go through the checklists and reduce the risk of hidden forced labour in your business. It is up to you to assess which points are most relevant for your company to reduce the risk of forced labour.

Checklist A: General precautions



- 1 Has the company drawn up guidelines for preventing and managing the risks of human trafficking and hidden forced labour as part of their policy on responsible corporate conduct?
- 2 Consider including the points below in the company's general guidelines:
 - a. An obligation to combat forced labour in both direct employment and when using subcontractors.
 - b. Procedures for action and consequences in case of signs of forced labour.
 - c. A guarantee that employees have freedom of movement and are free to enter into and terminate employment.
 - d. Regular risk assessment and monitoring of working conditions (e.g. spot checks) of employees and of subcontractors.
- 3 Is the company aware of groups of workers/temporary staff, including employees of the subcontractors, that are most likely to be exploited and the circumstances that make them vulnerable to exploitation?
- 4 Does the company collaborate with authorities, trade associations and trade unions on identifying and reporting possible cases of human trafficking for forced labour?
- 5 Has the company notified partners in the supply chain of the risk of human trafficking for forced labour? Are the company's position and policies towards this clear in contracts and cooperation agreements?
- 6 Do the company's managers/middle managers talk to the workers regularly and informally, including to subcontracted employees, to hear about their working conditions and potential critical conditions?

Checklist B: Direct recruitment and employment



- 1 Does the company ensure that every recruitment takes place through a personal meeting at the company's address?
- 2 Does the company ensure that the contract is in a language that the employee understands and that all the details in the contract are grasped by the new employee?
- 3 Does the company consider using independent interpreters to communicate with foreign employees who do not speak Danish?



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- 4 Does the company ensure that the employee brings the following documents to the interview?
 - a. Criminal record and consent form
 - b. Registration certificate for EU citizens
 - c. Work permit and residence permit for non-EU citizens
 - d. Copy of photo ID such as a passport for non-Danish citizens
 - e. Health insurance certificate
 - f. Security clearances, if necessary
- 5 Does the company ensure that the employees' documents are original and authentic, and that the person who is present matches the person in the ID documents (e.g. passport)?
 - a. Are the dates and expiry dates for all documents/permits checked?
 - b. Are the photo ID, age, height, eye colour, ear shape, etc. checked?
 - c. Are the police contacted in case of suspicion of forgery?
- 6 Does the company consider issuing an ID card with photo and date of expiry at the time of employment, which must always be carried by the employee at the workplace?
- 7 Are the following questions asked at the employment interview at the company:
 - a. Where did the person hear about the job? (recruitment)
 - b. Has the person paid, or must s/he pay a third party to be employed?
 - c. Is the person in debt as a result of the employment?
 - d. Where does the person live (address)?
 - e. Who is the person's landlord?
 - f. What is the person's phone number and who should be contacted in case of an emergency?
- 8 Is the job candidate informed of rights such as hourly rate, working hours, sick leave and the possibility of joining a trade union at the employment interview?

Checklist C: Precautions when using (sub-)contractors



- 1 Has the company chosen a strategy/policy concerning the use of suppliers and subcontractors, which obliges them to offer their employees the same salary and employment conditions that are customary in the Danish labour market?
- 2 Has the company included a permanent clause in contracts with (sub-)contractors and other partners which ensures zero tolerance of human trafficking for forced labour? Can the company terminate the contract immediately if this clause is not observed?
- 3 Does the company ensure that all statutory and authority requirements are observed? Has the company ensured:
 - a. Someone to be responsible for establishing that subcontractors fulfil the same requirements and obligations as those applying to the supplier under the contract?
 - b. That the company at any time may request documentation from the supplier showing that these requirements and obligations are fulfilled?

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- 4** Has the company ensured that it is only possible to use subcontractors who have been approved by authorities in writing? The company is encouraged to ask the supplier and any subcontractors to present a service certificate from the Danish Business Authority or present documentation with similar information. The service certificate should not date back more than six months. In the (sub-)contractor's service certificate the following should be examined:
- Has the (sub-)contractor been found guilty of any criminal offence or are they involved in any pending criminal case?
 - Does the (sub-)contractor comply with payment obligations to public authorities (social security schemes, direct and indirect taxes, etc.)?
 - Is the (sub-)contractor facing bankruptcy?

- 5** Does the company ask the (sub-)contractor to present registration certificates documenting that the supplier is registered with SKAT (the tax authorities) in accordance with the Danish VAT Act and the Danish Income Tax Act?

- 6** Does the company check whether foreign (sub-)contractors are under an obligation to be registered on the Danish Register of Foreign Service Providers (RUT)? If a foreign company is found not to be registered with RUT, this must be reported to the Danish Working Environment Authority.

- 7** Has the company concluded a written contract with (sub-)contractors that ensures that employees are not obliged to pay charges/fees in connection with recruitment?

- 8** Does the company consider whether the supplier complies with the following points?
- Does the supplier employ and pay wages to the employees and assume ordinary employer's liability?
 - Do all employees receive a statement of terms and conditions before the commencement of the work? On request by the company, does the supplier send a copy of the statement of terms and conditions within five working days?
 - Are all employees employed by the supplier or by a subcontractor approved by the company?
 - Do all employees carry a visible ID card issued by the supplier or a subcontractor approved by the company? Does the ID card include a photo of the employee and other identifying characteristics of the employee?
 - Have the employees been provided with and do they wear uniforms and easily recognisable work clothes (if applicable)?
 - Is the company entitled to contact the supplier's employees without prior notice to obtain information about an employee's identity?
 - Is the supplier responsible for ensuring that employees have valid residence and work permits? In order to ensure identification of foreign employees, does the supplier take copies of the passports or other types of photo ID documentation and work and residence permits, if relevant, for employees from non-EU countries? And can this documentation be presented within two working days at the company's request?
 - Does the supplier ensure that wages, tax on regular income and labour market contributions are reported to the tax authorities for the work performed according to the rules applicable to the employer?

- 9** Is it possible for the company to request at any time that the supplier, within five working days, present a copy of the subcontractor's financial statements for the past three years or since the subcontractor's starting date if less than three years ago?



WHAT IS HUMAN TRAFFICKING FOR FORCED LABOUR?

Facts and legislation

You will find definitions of human trafficking and forced labour in the Danish Penal Code section 262a(1) and the ILO Convention 29 (see text boxes 1 and 2 on page 13). In practice a person will often be misled and deceived into accepting working conditions which subsequently prove to be different to and worse than originally promised. As the person did not know the real working conditions, s/he cannot be said to have offered him/herself voluntarily. When the person wants to leave this job, s/he is exposed to threats or violence if the job is not done. This can, for example, consist of direct physical threats, threats against his or her family or threats of not receiving wages already earned, etc. These are all conditions which force the person into continuing an employment relation and a situation of exploitation, which s/he would otherwise have left.

- » The International Labour Organization (ILO) estimates that in 2016 almost 16 million people globally were victims of forced labour in the private sector.
- » In Denmark 86 persons were identified as victims of trafficking for forced labour during the period 2007–2018.

Working conditions on a continuum – from decent work to human trafficking

This figure illustrates factors that characterise working conditions, on a continuum from free and decent work **(A)** to conditions that are characterised as human trafficking for forced labour **(E)**.



NATIONAL AND INTERNATIONAL STANDARDS

The framework for the Danish effort to combat human trafficking has been a number of national action plans, which include trafficking for forced labour alongside other forms of exploitation. The first action plan was launched in 2002 following the Palermo Protocol of 2000 and the EU Framework Decision of 19th July 2002 on combatting human trafficking. Most recently, a large majority in the Danish Parliament has voted to allocate funds for the fifth action plan to combat trafficking in human beings for the period 2019–2021, where the effort against forced labour is a central element ([Danish Action Plan to Combat Trafficking in Human Beings 2019–2021 on www.um.dk](#)). In recent years there has been a rise in international attention on combatting human trafficking for forced labour in (global) supply chains, including an increased focus on the responsibility and role of businesses. In the text boxes below you will find summaries of some of the most relevant international legislation and instruments in this area.

1 Danish law

Human trafficking is included in Section 262a(1) of the Danish Penal Code: The maximum penalty if found guilty of human trafficking is ten years in prison. A person who conducts human trafficking by recruiting, transporting, transferring, housing or subsequently receiving another person is guilty if one or more of the following have occurred: a) unlawful coercion under Section 260; b) illegal restraint under Section 261; c) threats under Section 266; d) unlawful inducement, encouragement or exploitation of a mistake, or e) any other manner of taking unfair advantage in order to exploit the person in question for prostitution, taking or recording of pornographic photographs or films, pornographic conduct, **forced labour**, slavery or slavery-like conditions, criminal acts or removal of organs.

Forced labour: It is stated in the preparatory work for Section 262a that the expression ‘forced labour’ should be interpreted according to ILO conventions 29 and 105 on forced labour 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” (ILO Convention 29, Article 2(1), 1930).

2 Binding international law

- » **The Council of Europe’s Convention on Action against Trafficking in Human Beings:** This convention was ratified by Denmark in 2007. The purpose of the convention is to safeguard victims of human trafficking, to prevent and combat trafficking as well as prosecute traffickers. This is regarding all form of exploitation, including prostitution, **forced labour**, crime and slavery. <https://www.retsinformation.dk/Forms/R0710.aspx?id=129730>.
- » **The European Human Rights Convention:** The convention was ratified by Denmark in 1952 and incorporated in Danish law in 1992. The convention includes, for instance, a ban on slavery and **forced labour** as according to Article 4. https://menneskeret.dk/files/media/dokumenter/om_os/om_menneskerettigheder_diverse/den_europaeiske_menneskerettighedskonvention.pdf.
- » **ILO conventions:** The ILO conventions are considered fundamental workers’ and human rights. The core of the conventions includes the elimination of all forms of forced or compulsory labour. Denmark has ratified 72 ILO conventions, including the “Forced Labour Convention (29)”, and the “Abolition of Forced Labour Convention (C105)”. A new protocol on forced labour was ratified by Denmark and has been in effect since June 2017: http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:P029.

3 Forced labour: International guidelines and standards

- » **UN Guiding Principles on Business and Human Rights (UNGPR):** The UN Guiding Principles on Business and Human Rights were endorsed by the United Nations Human Rights Council in 2011. The guiding principles define what states and companies should do to avoid and address human rights abuses committed in business operations. <https://business-humanrights.org/en/un-guiding-principles>.
- » **UN Sustainable Development Goals (SDGs):** Combating forced labour is included in Article 8.0 “Decent jobs and financial growth” in the UN SDG’s. Article 8.7 focuses specifically on forced labour. Article 8.8 is also relevant as it focuses on protecting labour rights. <https://sustainabledevelopment.un.org/?menu=1300>.
- » **Global Compact:** The Global Compact is a UN initiative which sets up ten general principles for the social responsibility of businesses. Three of the principles are especially relevant: Principle 3) Businesses should uphold the freedom of association and the effective recognition of the right to collective bargaining; Principle 4) the elimination of all forms of forced and compulsory labour; Principle 5) the effective abolition of child labour; and Principle 6) the elimination of discrimination in relation to employment and occupation. <https://www.unglobalcompact.org/>.

4 UK Modern Slavery Act

The UK Modern Slavery Act is an example of a national anti-trafficking policy that has implications for businesses in and outside the country. The UK Modern Slavery Act aims to ensure that companies are responsible for their supply chains. It states that all businesses that operate in the country and that have a turnover of above £36 million have to deliver an annual “slavery and human trafficking statement”. The companies have to outline the steps taken to prevent and combat slavery and human trafficking at all steps of the supply chain. The act is British but directly affects Danish companies who are suppliers to British companies. Subsidiary companies and Danish companies who do business in the UK are also covered by the act. Danish Industry (DI) has published a guide to the act for Danish companies: [Guide to UK Modern Slavery Act on www.di.dk](#).

USEFUL CONTACTS AND LINKS

The Danish National Police, National Centre of Investigation (NCI): pol-nec-menneskehandel@politi.dk, tel: +45 4515 5040

Hotline for the Danish Working Environment Authority: +45 7012 1288: www.amid.dk

Danish Tax Agency: www.skattestyrelsen.dk

Danish Business Authority: www.erhvervsstyrelsen.dk / <https://samfundsansvar.dk>

The Danish Agency for International Recruitment and Integration (SIRI): SIRI has produced a pamphlet for employers to help them avoid hiring employees who do not have the right to work in Denmark. Guide: *How to avoid hiring foreign employees who do not have the right to work in Denmark* on www.ias.au.dk

Danish Council for Corporate Responsibility: www.raadetforsamfundsansvar.dk

The Mediation and Complaints-Handling Institution for Responsible Business Conduct: www.virksomhedsadfaerd.dk

CSR Compass: www.csrkompasset.dk

The Danish Ethical Trading Initiative: www.dieh.dk

Links to other guidelines:

Finland: *Guidelines for businesses and employers for risk management in subcontracting chains* on www.heuni.fi/en



Contact the Danish Centre against Human Trafficking if you suspect human trafficking for forced labour.

The Danish Centre against Human Trafficking offers companies advisory services, training and information about human trafficking for forced labour. The centre also offers assistance to victims of human trafficking. You can read more about the Danish Centre against Human Trafficking at www.cmm.dk. You can also find further information relevant to businesses regarding forced labour at the centre.

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