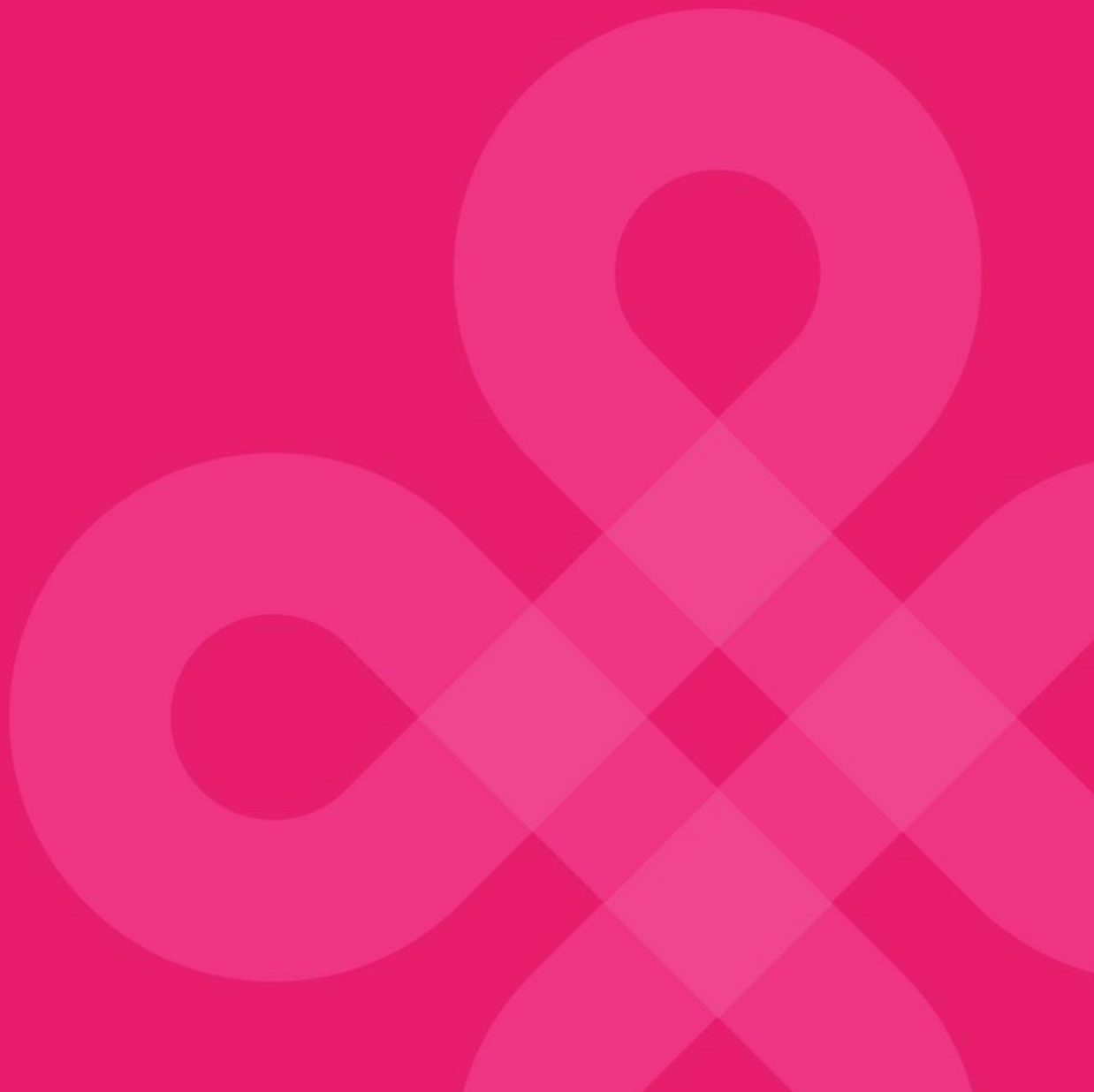


Dutch Child Labour Due Diligence Act

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Sam Engelman



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In May 2019, the Dutch Senate voted to adopt the Child Labour Due Diligence Act [Wet Zorgplicht Kinderarbeid], hereinafter referred to as Child Labour Due Diligence Act. With the adoption of the act, The Netherlands stands out as a frontrunner in the international trend towards mandatory human rights legislation.¹

What is child labour?

Child labour is all forms of work performed by children under the age of 12 as per the International Labour Organization standards. Child labour is also likely to be harmful or hazardous to the health or morals of girls and boys under 18 years of age.² 218 million children are in employment; amongst them 152 million children are victims of child labour, with approximately 36 million children working in hazardous conditions.³

What is the Child Labour Due Diligence Act?

The legislation obliges companies to investigate whether their goods or services have been produced using child labour and to devise a plan to prevent child labour within supply chains where applicable.⁴ The legislation is one of the first of its kind, although the UK Modern Slavery Act of 2018 and the French 'Devoir de Vigilance' bill of 2017 show similarities. The Child Labour Due Diligence act is based on The UN Guiding Principles on Business and Human Rights, a set of guidelines for UN States and companies to prevent, address and remedy human rights abuses committed in business operations.⁵

What is the purpose of the Child Labour Due Diligence Act?

The stated goal of this legislation is to protect Dutch consumers. The legislation aims to prevent goods and services produced using child labour from being delivered to consumers in the Netherlands. Dutch consumers should be able to trust that the companies from which they purchase products and services are conducting due diligence to prevent child labour from being used in their products and services or supply chain. Although protecting Dutch consumers is a consequence of the act, the Dutch Senate has stated that, combating child labour is the ultimate goal of the act.⁶ This goal stems from the international Sustainable Development Goals (SDGs), adopted by world leaders in 2015, to eradicate child labour by 2025.⁷

To whom will the Child Labour Due Diligence Act apply?

The act applies to all companies registered in The Netherlands, but also applies to all companies from anywhere in the world that deliver their products or services to the Dutch market at least twice a year.⁸ Some sectors or companies can be exempt to the act, but this is yet to be determined by the Dutch government and will only be the case if the risk for child labour is deemed as low.

When will the Child Labour Due Diligence Act come into effect?

The legislation is expected to come into effect mid 2022, but parts of the interpretation and implementation of the act are still being determined. It is also not yet determined whom will be the

¹ <https://www.mvoplatform.nl/en/the-netherlands-takes-a-historic-step-by-adopting-child-labour-due-diligence-law/>

² https://www.ilo.org/wcmsp5/groups/public/---ed_norm/--declaration/documents/publication/wcms_decl_fs_47_en.pdf

³ <https://www.humanium.org/en/child-labour-definition/>

⁴ <https://www.allenoverly.com/en-gb/global/news-and-insights/publications/mandatory-human-rights-due-diligence-laws-the-netherlands-led-the-way-in-addressing-child-labour-and-contemplates-broader-action>

⁵ https://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr_en.pdf

⁶ <https://www.mvoplatform.nl/en/frequently-asked-questions-about-the-new-dutch-child-labour-due-diligence-law/>

⁷ <https://www.un.org/sustainabledevelopment/economic-growth/>

⁸ <https://ondernemersplein.kvk.nl/wet-zorgplicht-kinderarbeid/>

regulator for the act, the choosing of a regulator is the responsibility of the Dutch government. Once the Dutch government has chosen a regulator, the appointment of the regulator will become effective once the appointment has been approved by both Chambers of Dutch Parliament.⁹ Once the act has come into effect, companies have up to six months to submit proof that they comply with the Child Labour Due Diligence Act.¹⁰

How to prepare for the Child Labour Due Diligence Act?

As the act is based on the UN Guiding Principles on Business and Human Rights, there is a Child Labour Guidance Tool for Businesses, which provides practical guidelines for companies to combat child labour in their supply chains by following a step-by-step plan. Companies are advised to:

1. Develop a policy for the prevention of child labour and embed it through the organisation.
2. Identify and assess the risk of child labour in the supply chain.
3. Take action to stop, prevent or reduce child labour.
4. Monitor the effectiveness of the policy and the approach.
5. Communicate on how child labour is being tackled.
6. Involve stakeholders to gain better understanding of the impact of the actions undertaken.¹¹

Companies are advised that at a minimum they have a duty to investigate their involvement with child labour and this must be documented in a research and action plan. From this research the company must then submit a statement of due care.¹² The statement currently has no expiry of validity meaning that a single submission for organisations is sufficient. All statements will be published on the website of the regulator, once determined.

What happens to those not complying with the Child Labour Due Diligence Act?

Companies that fail to submit a statement will be fined € 4,100. The fine can be raised if there are further complaints and if a company fails to follow the subsequent legally-binding instructions and terms of execution imposed by the regulatory authorities.¹³

In the event of a violation of the act, and after submission of a complaint by an interested party and imposition of a binding instruction by the regulator, administrative fines of up to € 870,000 or 10% of the annual turnover can be imposed. If, after an administrative fine, the company commits the same offence again within five years on the instructions of or under the actual management of the same director, its director(s) (and possibly the company itself) can be prosecuted.¹⁴

⁹ <https://www.mvoplatform.nl/en/frequently-asked-questions-about-the-new-dutch-child-labour-due-diligence-law/>

¹⁰ <https://jahae.nl/nl/nieuws-publicaties/wet-zorgplicht-kinderarbeid-een-doorwerking-van-de-principes-van-business-human-rights>

¹¹ <https://www.nautadutilh.com/en/information-centre/news/the-possible-impact-of-the-dutch-child-labour-due-diligence-act>

¹² <https://www.stibbe.com/en/news/2020/february/wet-zorgplicht-kinderarbeid-gepubliceerd-in-het-staatsblad>

¹³ <https://www.mvoplatform.nl/en/frequently-asked-questions-about-the-new-dutch-child-labour-due-diligence-law/>

¹⁴ <https://www.nautadutilh.com/en/information-centre/news/the-possible-impact-of-the-dutch-child-labour-due-diligence-act>



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