

# The Ultimate Guide to Fighting Against Forced Labour and Child Labour in Supply Chains Act

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Enabling an ethical transition to net zero

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# Introduction

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**Legislation is rapidly being introduced by countries and trading blocs to improve human rights and help address the environmental issues facing the planet.**

**O**rganisations across the world are slowly being scooped up by a metaphorical regulatory net which requires them to assess the potential for human rights and environmental risks within their supply chains and report on what they are proactively doing to address them.

Across the entire end-to-end process, from finished product to the metals, minerals and other raw materials that are required to make them, companies must now demonstrate a clear understanding of the impact they are having on people and the planet.

In more and more of the world, ethical business and business as a force for good is now not only a way of differentiating or a way of meeting increasingly discerning consumer expectations, it's a

regulatory issue with financial penalties for doing it wrong.

In this latest Achilles Ultimate Guide we take a detailed look at the Canadian Fighting Against Forced Labour and Child Labour in Supply Chain Act, who it applies to, what it means to those organisations (and their suppliers) that need to comply and provide advice on how to get started based on our own experience of supporting organisations with supply chain risk assessment and compliance gained for more than 30 years.



# What is the Fighting Against Forced Labour and Child Labour in Supply Chains Act?



**The Fighting Against Forced Labour and Child Labour in Supply Chains Act is a law that received royal assent in Canada in May 2023.**

It requires companies to take responsibility for fighting against modern slavery in their supply chains and to report on their actions.

Under the Fighting Against Forced Labour and Child Labour in Supply Chain Act, companies are required to report on the actions that have been taken during the previous financial year to prevent and reduce the risk of forced labour or child labour within the supply chain. This includes government institutions involved in producing, purchasing or distributing goods in Canada or elsewhere and on entities involved in manufacturing, producing, growing, extracting or processing goods in Canada or elsewhere in importing goods manufactured, produced, grown, extracted or processed outside Canada.

The law applies to government institutions as well as companies from a wide range of industries, including energy, manufacturing, construction, clothing, and food and beverage. Failure to comply with the law can result in fines, legal action and individual prosecution of directors or officers of a company. being restricted from competing for public tenders. The Fighting Against Forced Labour and Child Labour in Supply Chain Act draws upon two human rights conventions defined by the International Labour Organisation (ILO) and is part of a growing trend towards greater corporate responsibility for human rights in global supply chains. Several other countries, including Norway, France and Germany, have also implemented similar laws in recent years.



# Why is the Fighting Against Forced Labour and Child Labour in Supply Chain Act important?

The Fighting Against Forced Labour and Child Labour in Supply Chain Act is important for several reasons:

- **Protection of Human Rights:** The law is designed to protect human rights by requiring companies to report on the actions they have taken to identify and address potential risks in their supply chains associated with forced labour and child labour. By ensuring that companies are held accountable for human rights abuses in their supply chains, the law helps to protect vulnerable workers and communities around the world.
- **International Norms:** The law is consistent with international norms on business and human rights, including the United Nations Guiding Principles on Business and Human Rights. By aligning with these norms, the law helps to promote a common understanding of the responsibilities of companies in relation to human rights and the environment.

Overall, the Fighting Against Forced Labour and Child Labour in Supply Chain Act is important because it helps to promote responsible business practices, protect human rights and create a more just and equitable global economy.





# Which organisations need to comply with the Fighting Against Forced Labour and Child Labour in Supply Chain Act?

The new legislation will be applied to government institutions and Canadian entities from the **1st of January 2024** that meet one or more of the following thresholds:

- Government institutions producing, purchasing or distributing goods in Canada or elsewhere will be impacted by the legislation when it comes into force at the beginning of 2024.
- Any entity (a corporation, trust, partnership or other unincorporated organisation) that's listed on a stock exchange in Canada, has assets or a place of business in Canada, or that does business in Canada and meets at least two of the following conditions based on the entities most recent financial year:
  - It has at least \$20 million in assets,
  - It has generated at least \$40 million in revenue,
  - And it employs an average of at least 250 employees





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**Risk areas covered by the Act are based on two specific ILO Fundamental Conventions, Worst Forms of Child Labour Convention (1999) and the Forced Labour Convention (1930).**

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## Section Five

# What does the act encompass?

- **Human rights:**

The law requires companies to report on the actions that have been taken by them to prevent and address human rights violations in their supply chains, specifically those associated with child labour or forced labour.

The law is designed to promote responsible business conduct and prevent harm to people across global supply chains. It reflects a growing recognition of the need for companies to take responsibility for their supply chains and ensure that their business practices are ethical.



# What are the Fighting Against Forced Labour and Child Labour in Supply Chain Act reporting requirements?

The Fighting Against Forced Labour and Child Labour in Supply Chain Act imposes reporting requirements on entities and government institutions. The law requires entities and government institutions to file an annual report with the federal government which includes information covering:

- Its structure, activities and supply chains.
- Its policies and its due diligence processes in relation to forced labour and child labour.
- The parts of its business and supply chains that carry a risk of forced labour or child labour being used and the steps that have been taken to assess and manage the risk.
- Measures that have been taken to remediate any forced labour or child labour.
- The measures taken to remediate the loss of income to vulnerable families that results from measures that have been taken to eliminate the use of forced labour or child labour in its activities and supply chains.
- The training that has been provided to employees on forced labour and child labour.

The monitoring of the effectiveness of activities in ensuring that forced labour and child labour are not being used in its business and supply chains. Reports must be signed and approved by the entity or government institution prior to their submission to the Minister on or before the 31st of May annually.

In addition to submitting the annual report, government institutions and entities must

make the report available to the public, including publishing in a prominent place on its website. For federal corporations under the Canada Business Corporations Act or any other Act of Parliament, the report must also be provided to shareholders, along with annual financial statements.





# What happens if a company fails to comply with the Act?

**Entities or government institutions that fall under the requirements of the Act will be responsible for ensuring that they have submitted an appropriate annual report on or before the 31st of May each year.**

**F**ailure to comply, or by submitting false or misleading information may result in financial or legal penalties depending on the nature of the non-compliance. The Act currently advises that consequences may include:

- Fines of not more than \$250,000.
- Prosecution of directors, officers etc. of the entity or government institution
- Prosecution of an employee, agent or mandatory of the entity or government institution

Beyond the legislative penalties that may be brought against the entity or government institution, there are also other significant implications when failing to comply including damage to brand reputation and the financial impact of a loss of consumer or shareholder confidence. It can take a very long time to build up positive brand recognition, however, it does not take long to seriously damage it.

# What are the benefits of compliance?

Overall, complying with the Fighting Against Forced Labour and Child Labour in Supply Chain Act can bring significant benefits to organizations, including improved reputation, reduced risk, increased efficiency, competitive advantage, and long-term sustainability.

- **Improved Reputation:** Complying with the law can help improve an organization's reputation as a responsible and ethical business. By taking steps to prevent human rights abuses in their supply chains, organizations can enhance their brand image and increase customer loyalty.
- **Reduced Risk:** Compliance with the law can help reduce the risk of legal action, fines, and reputational damage. By identifying and addressing potential risks in their supply chains, organizations can minimize the likelihood of human rights abuses occurring and mitigate any negative impacts.
- **Increased Efficiency:** Compliance with the law can help increase the efficiency of supply chain management.

By implementing due diligence measures and monitoring suppliers, organizations can identify areas for improvement and optimize their supply chain operations.

- **Competitive Advantage:** Compliance with the law can provide a competitive advantage by demonstrating a commitment to responsible business practices. This can help organizations attract and retain customers, investors, and employees who prioritize ethical business practices.
- **Long-Term Sustainability:** Compliance with the law can contribute to the long-term sustainability of an organization's operations. By taking steps to prevent exploitation and ensure the health and safety of workers, organizations can promote the well-being of their employees and the communities in which they operate.





# What is involved in taking a risk-based approach to supply chain due diligence?

**A risk-based approach is a fundamental principle of human rights due diligence. It's almost impossible for organisations to scrutinise their entire supply chain to identify issues.**

A risk-based approach enables companies to identify the industries, geographical locations or specific suppliers that present the greatest risk. This insight provides businesses with the opportunity to work more closely with suppliers to improve human rights and environmental processes. Risk-based thinking has been used in many disciplines and is specifically referred to within the OECD Guidance for Responsible Business Conduct,

The key steps to a risk-based approach to supply chain management are:

- **Identify and Prioritize Risks:** The first step is to identify potential risks in the supply chain, such as forced labour, child labour, environmental pollution, or animal welfare violations. Companies should prioritize risks based on their severity and likelihood of occurring.
- **Conduct Due Diligence:** Once risks are identified, companies should conduct appropriate levels of due diligence on their suppliers to assess their compliance with relevant laws and standards. This may include conducting audits, site visits, or engaging with stakeholders.
- **Mitigate Risks:** Companies must take steps to mitigate identified risks in

their supply chains. This may involve communicating and collaborating with suppliers to address non-compliance, terminating relationships with non-compliant suppliers, or providing training and capacity building.

- **Monitor and Review:** Companies should continuously monitor their supply chains for potential risks and review their risk management processes to ensure they are effective. This may involve regular supplier audits or conducting risk assessments in response to changing circumstances.
- **Reporting:** Companies must report on their due diligence processes and outcomes, including the identification and mitigation of risks. The law requires companies to provide public reports on their compliance with the law.

Overall, by taking a risk-based approach, companies can identify and address potential risks in their supply chains, promote responsible business conduct, and ensure compliance with Canadian and international human rights legislation. This approach helps companies to minimize potential harm to the people in their supply chains and promote sustainable business practices.



# How to get started on the path to compliance with the Fighting Against Forced Labour and Child Labour in Supply Chain Act?

Getting started with the Fighting Against Forced Labour and Child Labour in Supply Chain Act can be a complex process, but there are several steps that companies can take to begin their compliance journey:

- **Develop a Due Diligence Policy:** Companies should develop a due diligence policy that outlines the processes and measures they will take to mitigate risks in their supply chains. This policy should be aligned with the requirements of the law and should be communicated to all relevant stakeholders.
- **Assess Your Supply Chain:** The first step is to assess your supply chain to identify potential risks related to forced labour and child labour. This includes identifying suppliers and subcontractors and evaluating their adherence to international standards and regulations.
- **Implement Due Diligence Measures:** Companies should implement due diligence measures to identify and mitigate risks in their supply chains. This includes conducting risk assessments and audits engaging with suppliers to ensure compliance and implementing risk mitigation measures where necessary.
- **Monitor and Evaluate Performance:** Companies should monitor and evaluate the performance of their due diligence measures to ensure that they are effective in mitigating risks in their supply chains. This includes tracking supplier performance and conducting regular risk assessments.

- **Publish Annual Reports:** Companies should publish annual reports on their compliance with the due diligence obligations under the law. These reports should include a description of due diligence processes, identified risks, risk mitigation measures, supplier engagement, remedy measures, verification measures, grievance mechanisms, transparency, and management approach.
- **Engage with Stakeholders:** Companies should engage with stakeholders, including customers, investors, civil society organizations, and affected communities, to understand their concerns and expectations related to supply chain due diligence.
- **Seek External Support:** Companies can seek external support from consultants, auditors, and other experts to help them comply with the requirements of the law.

In summary, getting started with the Fighting Against Forced Labour and Child Labour in Supply Chain Act requires a broad approach to be truly effective. An approach that should include developing due diligence processes, assessing the supply chain, implementing due diligence measures, monitoring and evaluating performance, publishing annual reports, engaging with stakeholders, and seeking external support where necessary.







# Challenges of achieving compliance with the Fighting Against Forced Labour and Child Labour in Supply Chain Act

Organisations working towards and achieving compliance with the Fighting Against Forced Labour and Child Labour in Supply Chain Act face several challenges. These include:

- **Supply Chain Complexity:** Many companies have complex and extensive supply chains, with numerous tiers of suppliers. Identifying and assessing risks throughout the entire supply chain can be challenging and resource-intensive. The complexity can also be compounded by the global nature of supply chains, some operating in hard to reach or hard to access countries.
- **Data collection:** Data required to comply goes beyond regular operational boundaries. Data sources with questionable provenance, accuracy and interpretation often become primary sources of information which undermine the basis for the reporting. Data may also be in multiple data formats and there is often an absence of systems to record data in a methodical way that can be used to demonstrate a risk-based approach.
- **Veracity of data:** Web-scraped or AI generated data from sources of unknown provenance lacks the scrutiny necessary to fully understand the risks. Organisations rarely have the resources to undertake credible data checking or independent verification required to report with confidence.
- **Lack of Transparency:** Many suppliers may be unwilling or unable to provide full transparency into their operations, making it difficult to identify and address risks.
- **Limited Capacity:** Many buyers may lack the resources to undertake such intensive and sustained supply chain management including data collection from numerous disparate sources or sufficiently credible levels of data checking and verification of their suppliers. Likewise, suppliers may lack the capacity or resources to implement the necessary improvements to comply with the law.
- **Cost of Compliance:** Complying with the law can be expensive, especially for small and medium-sized companies. The cost of conducting due diligence, monitoring suppliers, and implementing risk mitigation measures can be significant.
- **Knowing what is enough:** Understanding what is required to satisfy the regulators and ensure compliance. For more on this read our useful Blog: [When is enough, enough?](#)
- **Legal Liability:** Non-compliance with the law can result in legal liability, including fines and legal action. This can create additional risk for companies, particularly if they are unable to identify and address potential risks in their supply chains.
- **Coordination with Suppliers:** Collaboration with suppliers is essential to implement due diligence processes effectively and as transparently as possible. However, engaging with suppliers can be challenging, especially if they are in different countries with different cultural and legal frameworks.
- **Time Constraints:** Companies may struggle to implement effective due diligence processes within the required timeframe. The law requires companies to implement due diligence processes within a specific timeframe, and non-compliance can result in legal liability.





# Conclusion

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## Section Twelve

**T**he Fighting Against Forced Labour and Child Labour in Supply Chain Act is a significant development in Canada's approach to supply chain regulation. This law requires companies to report on the actions they have undertaken throughout their supply chains to prevent human rights abuses. It applies to both government institutions and entities, including those based outside of Canada, and can result in fines for non-compliance.

The passing of this law marks an important step towards a more responsible global economy. As other countries consider similar legislation, it is likely that supply chain transparency and accountability will

become increasingly important in the global marketplace. Embarking on a journey of improved supply chain due diligence now will likely reduce future disruption when other nations or industries adopt increased levels of due diligence on the supply chain.

The Fighting Against Forced Labour and Child Labour in Supply Chain Act is a positive development that has the potential to create a more ethical supply chain ecosystem. By prioritizing the well-being of workers, communities, and the environment, companies can build a stronger and more resilient global economy for the future.



# About Achilles

For over 30 years, Achilles has protected organisations' business interests and reputations by providing unrivalled levels of supply chain transparency, carbon reduction and management. We are the ESG and carbon management partner of choice for the world's leading global brands.

Achilles specialises in supporting customers that require truly robust environmental, social and governance reporting to fully comply with ESG regulation, meet investor requirements and achieve their own ambitious sustainability goals. We work with market-leading financial, industrial, commercial and governmental organisations requiring the serious, detailed analysis and expert insight necessary to deliver exceptional reporting confidence and positive social and environmental impact.

Operating from 17 locations worldwide, Achilles is at the forefront of the battle against climate change, a champion for social justice and human rights, and an expert in health, safety, and risk management.



# How Achilles helps companies to comply with the Act

Achilles works on behalf of organisations that require comprehensive supply chain due diligence solutions and detailed data insight necessary to comply with international supply chain legislative obligations including the Fighting Against Forced Labour and Child Labour in Supply Chain Act.

Achilles services include:

- **Supply Chain Evaluation**  
We collect and assess data from a wide range of sources including (but not limited to) documentation from your suppliers, publicly accessible and historical information from the internet and investigation reports from NGOs and charities. Uniquely, our Lieferkettengesetz questionnaire also incorporates information captured from our extensive, global, in-person audit programme, and the voices of workers gathered over many years of interviews in similar industries and regions to paint a full picture of your supply chain risk.
- **Risk Assessment**  
Detailed supply chain evaluation enables us to undertake a “broad scoping exercise” to create a high-level picture of risks that may be hidden within the supply chain. This broad, multi-disciplined approach is integral to successful supply chain due diligence

and key for organisations that need to be able to demonstrate to regulatory authorities that they understand their risks and have “done enough” to mitigate them.

- **Due Diligence**  
Delivering thousands of audits (both desktop and site) every year, our teams of highly skilled audit personnel are strategically situated across the globe to interrogate documentation, physically inspect workplaces and confidentially speak with individuals who may be subject to unethical employment practices or human rights violations.
- **Remediation and Reporting**  
Committed to continually improving international supply chains, Achilles drives continual improvement through the tracking of audit report findings and remediation actions within the supply chain. Analysis supported by Achilles Data Scientists gives you the comprehensive supply chain data that can be included within annual reports.

**Contact us** to find out how Achilles can help you meet your Fighting Against Forced Labour and Child Labour in Supply Chain Act obligations.



## What does BAFA stand for?

BAFA stands for “Bundesamt für Wirtschaft und Ausfuhrkontrolle,” [English version only which translates to the Federal Office for Economic Affairs and Export Control]. BAFA is a German government agency responsible for various economic and export control matters. Under the Lieferkettengesetz, BAFA plays a role in monitoring and enforcing compliance with the law’s requirements related to supply chain due diligence. The agency may conduct inspections, request information from companies, and impose fines for non-compliance.

## What is the maximum fine for non-compliance with the Lieferkettengesetz?

Firms face fines of up to 2% of their global turnover if they fail to identify and prevent human rights and environmental impacts in their supply chains.

## Has anyone been found to be in breach of Lieferkettengesetz yet?

In April 2023, a number of Industry groups filed what is believed to be the first complaint against Amazon, Ikea and Tom Tailor over what they deem a “failure” of corporate due diligence under Lieferkettensorgfaltspflichtengesetz. The European Center for Constitutional and Human Rights (ECCHR), the National Garment Workers Federation (NGWF) and the African Women’s Development and Communication Network (FEMNET) said a lack of safety checks by Amazon, Ikea and Tom Tailor of their suppliers amounts to “a violation of corporate due diligence” under the Lieferkettengesetz. The outcome of the complaint is not known at the time of publication of this Guide.



# Examples of human rights abuses uncovered by Achilles during due diligence undertaken on behalf of our clients worldwide.

- During an audit of a manufacturing facility in China our audit team spoke to workers who had not been provided with adequate PPE to prevent skin damage and burns when working with hazardous substances.
- During a visit to suppliers operating on behalf of European energy producers our Auditors spoke to workers who reported having to pay large sums of money to agency providers to guarantee work. In some instances, the fees ran into the thousands of euros.
- Closer to home, our teams have spoken to workers across Europe who have reported basic infringements to their human rights or unethical employment practices. These have ranged from mandatory overtime, not receiving fair or equal remuneration through to wage deductions as a form of disciplinary practice. Presenting the potential for individuals to find themselves indebted to their employer.
- Many people that we have spoken to around the world are often not aware of some of the basic, fundamental human and employment rights that they have. Lack of awareness of local legislation and language leaves individuals vulnerable to abuse by bad actors. Human rights and social challenges affect everyone. It's likely many of the products or services we use have in some way been tainted by forms of human rights abuse within the supply chain. As global businesses and citizens it's a moral duty to conduct robust due diligence and educate those that we identify do not adhere to the values we hold.

- In September 2022 the ILO estimated that there were fifty million people living in modern slavery, 10 million more compared to 2016 estimates. Of that, 86% of forced labour cases were identified in the private sector.
- Issues aren't limited to human rights, countries around the world have become dumping grounds for hazardous waste. Developed nations have received increased criticism for not acting upon the export of hazardous or contaminated waste to various parts of the world, in contravention of the Basel Convention.
- It's not possible to use one part of any due diligence toolkit and expect it to drive significant change within the supply chain. Due diligence is a holistic approach requiring collaboration, communication, education and cooperation as much as it is around the more technical elements of risk assessment and audit. Creating transparent supply chains, open to critique and willing to learn is vital.
- The most successful due diligence programmes (even where there's not been any legislation to leverage) embolden suppliers to improve.
- Technology is a vital tool to combatting supply chain issues, however, hearing the voices of those within the supply chain and seeing their working and living conditions provides far richer insight into the challenges within the supply chain than any amount of electronic data can.
- The due diligence processes that a company enacts are unlikely to identify everything in the supply chain. Anyone who suggests otherwise perhaps has not seen the very real and isolated issues that our teams have witnessed from Chile to China and everywhere between. As businesses and professionals, our due diligence activities should stand up to scrutiny. In the event of an investigation, you need to feel confident in being able to say you did as much as you could to prevent the issues and you have processes that will be enacted to resolve the ones that have been identified. It's often investigative reports or testimony from individuals that get splashed on the front pages of the national press.
- Whilst some due diligence processes may take longer to implement, whether that be risk mapping of the supply chain, utilising third party software or conducting audits there are some simple steps companies can take, starting with communication and education. The importance of speaking to the supply chain should not be underestimated. Explain what it is that you're planning on doing, why you are doing it and what you are hoping to achieve. Reassure that it is not simply a case of trying to wield a stick or punish, it's about identifying common areas of improvement. Many suppliers don't have the same resources as the organisations embarking on this legislative journey, or the knowledge required to ensure compliance. Impart that knowledge, whether that be through supplier communications, events or even visits. Share examples of best practice and lead by example.





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 **Achilles**  
Because Insight Beats Hindsight