

# **COMBATTING MODERN FORMS OF SLAVERY**

---

Draft Plan of Action against Forced  
Labour, People Trafficking and Slavery

**2020-25**

**September 2020**

**Ministry of Business, Innovation & Employment  
PO Box 1473  
Wellington 6140  
New Zealand**

[www.mbie.govt.nz](http://www.mbie.govt.nz)  
0800 20 90 20  
Media enquiries: [media@mbie.govt.nz](mailto:media@mbie.govt.nz)

**ISBN: 978-1-99-001935-7 (Online)**

© Crown copyright September 2020

The material contained in this report is subject to Crown copyright protection unless otherwise indicated. The Crown copyright protected material may be reproduced free of charge in any format or medium without requiring specific permission. This is subject to the material being produced accurately and not being used in a derogatory manner or in a misleading context. Where the material is published or issued to others, the source and copyright status should be acknowledged. The permission to reproduce Crown copyright protected material does not extend to any material in this report that is identified as being the copyright of a third party. Authorisation to reproduce such material should be obtained from the copyright holder(s).

## TABLE OF CONTENTS

<b>1. Introduction</b>	<b>2</b>
<b>2. Scope, terms and definitions</b> The continuum of exploitation	<b>4</b>
<b>3. New Zealand's Approach</b>	<b>6</b>
<b>4. Prevention</b> Undertake awareness raising and training activity Prevent exploitation from escalating through operational, policy and legislative responses Enhance international prevention responses through regional cooperation Eliminate forced labour, people trafficking and slavery from supply chains	<b>9</b>
<b>5. Protection</b> Provide for the effective and efficient delivery of support services to victims Improve information for victims of exploitation and vulnerable groups Improve our understanding of exploitation to enable better targeting of actions and measures	<b>14</b>
<b>6. Enforcement</b> Strengthen operational, policy and legislative settings to enhance enforcement and align with international obligations Improve cooperation in investigations across government agencies Improve international cooperation and partnership	<b>18</b>
<b>APPENDIX A: New Zealand's legal framework</b> The difference between people trafficking and people smuggling The difference between forced labour and people trafficking, and worker exploitation Trafficking in Persons in the Crimes Act 1961	<b>21</b>
<b>APPENDIX B: Key agencies</b>	<b>24</b>

## 1. INTRODUCTION

Addressing forced labour, people trafficking and slavery<sup>1</sup> requires a whole-of-government response. These practices and their outcomes touch on the roles of many different agencies and bodies across government<sup>2</sup>, and have implications for the wider public – including civil society, businesses and workers.

Exploitation takes many forms. It can include: requiring workers to pay for their job; denying leave; requiring excessive work hours; under-paying or not paying agreed wages; failing to provide an employment contract; retaining and withholding passports; controlling the living conditions, movement and communication of individuals; and threats and intimidation. In 2020, the Government announced a package of legislative, policy and operational changes to reduce the exploitation of temporary migrant workers in New Zealand.

On the other end of the scale, exploitation can include forced labour characteristics which can be seen in crimes such as slavery and people trafficking. This Plan of Action is focused on addressing those more extreme aspects of exploitation.

Many groups are vulnerable to exploitation. Factors can include poverty, gender, age, geographic and social isolation, lack of education, language and cultural barriers, and a lack of knowledge or understanding of the law. Globally, it is well recognised that women and children are particularly vulnerable to being trafficked, with children making up a major share of those trafficked<sup>3</sup>. These risks have only increased in light of the COVID-19 pandemic driving profound economic and social disruption across the world. Forced labour and people trafficking can victimise New Zealand nationals as well as migrants, and people of any age and gender can fall prey to this reality.

Victims of forced labour, people trafficking and slavery are some of the most vulnerable and hardest to reach people in our society. Victims are deprived of their basic human rights and can be exploited through a variety of practices, all for the direct benefit of offenders. Every opportunity needs to be taken for victims to be identified and provided with support that addresses the impact these practices have had on them.

In 2009, New Zealand introduced the *Plan of Action to Prevent People Trafficking*, setting out the whole-of-government approach to addressing people trafficking. At that time, New Zealand legislation only recognised people trafficking which occurred across international borders and it was viewed as an international crime that had not yet managed to gain a foothold in New Zealand.

However, since 2009 the national context of forced labour, people trafficking and slavery has changed. The *Crimes Act 1961* has been updated to criminalise domestic as well as transnational people trafficking, and since 2009 there have been four prosecutions for people trafficking in New Zealand. Since that time, 51 victims of people trafficking in New Zealand have been identified. However, these are hidden crimes and it is likely that there are more victims in New Zealand who have not yet been identified.

This new Plan of Action reflects those changes to the national context and to our increasing knowledge and understanding of forced labour, people trafficking and slavery. It connects the work being undertaken across government, including under related work programmes such as the implementation of New Zealand's Transnational Organised Crime Strategy and Action Plan.

---

1 These terms are defined in the next section, and in further detail in Appendix A.

2 Appendix B lists key agencies and briefly describes their roles.

3 The United Nations Office on Drugs and Crime's *Global Report on Trafficking in Persons 2018* estimates that women and girls respectively account for 49 and 23 per cent of global trafficking victims, while men and boys respectively account for an estimated 21 and 7 per cent of victims.

This Plan of Action also responds to New Zealand's international obligations, including under the Protocol to the Forced Labour Convention which New Zealand ratified in December 2019. It recognises the interrelationships between forced labour, people trafficking and slavery practices, and their connection with other forms of exploitation. It reaffirms New Zealand's commitment to prevent and eliminate these forms of modern slavery, and to provide victims with appropriate protection and support.

This Plan of Action against Forced Labour, People Trafficking and Slavery was developed in consultation with a range of government agencies and external stakeholders. We thank all participants for their engagement and commitment to taking action against modern slavery. We will continue to work together to address those practices in accordance with this Plan of Action.

## 2. SCOPE, TERMS AND DEFINITIONS

The initiatives under this Plan of Action focus on people trafficking, slavery and slavery-like practices including forced labour, debt bondage and serfdom.

These are exploitative crimes which can occur domestically to New Zealanders and migrants, as well as internationally.

**Appendix A** provides further information on New Zealand's legal framework to address these forms of exploitation.

**Forced labour** is all work or service exacted from a person under threat and for which the person has not offered themselves voluntarily<sup>4</sup>. It can occur as the result of trafficking or through labour exploitation.

In its simplest form, **people trafficking** (also referred to as trafficking in persons or human trafficking) is the recruitment, transportation, transfer, harbouring or receipt of a person, achieved through coercion, deception, or both, for the purpose of the exploitation of the person<sup>5</sup>. In New Zealand, trafficking in persons can be prosecuted without exploitation having actually occurred<sup>6</sup>.

Slavery is defined in New Zealand's Crimes Act 1961 as including, without limitation, a person subject to debt-bondage or serfdom. The Supplementary Convention on the Abolition of Slavery recognises institutions and practices similar to slavery, including debt bondage, serfdom, marriage-related and exploitative child labour-related practices.

We recognise that these forms of exploitation are often associated with other practices and offences such as breaches of employment standards, immigration fraud, physical and sexual assault, and money laundering. While not the focus of this Plan of Action, responding to those breaches and offences can assist in preventing or detecting serious exploitation.

Accordingly, we recognise the need for holistic action through a range of means and avenues, and the need to work in conjunction with other programmes including our Transnational Organised Crime Strategy. While recognising the need for holistic action and collaboration across government agencies, **Appendix B** provides information on key agencies and their respective primary roles and functions.

### What about modern slavery?

While there is no formal definition of "modern slavery", this is a term that is increasingly being used internationally and within New Zealand to describe a range of exploitative practices. The use of the term "modern" is being used to distinguish between present-day slavery and slavery-like practices from historical practices. The exploitative crimes that are commonly taken to comprise modern slavery include forced labour, debt bondage, forced marriage, other slavery and slavery like practices, and people trafficking<sup>7</sup>.

4 See *Forced Labour Convention, 1930*, International Labour Organization.

5 See *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*, United Nations Office on Drugs and Crime.

6 In New Zealand, people trafficking that occurs domestically is investigated and prosecuted against by the New Zealand Police, while cross-border trafficking is investigated and prosecuted against by Immigration New Zealand.

7 See, for example: *Global Estimates of Modern Slavery: Forced Labour and Forced Marriage*, International Labour Organization and Walk Free Foundation, 2017.

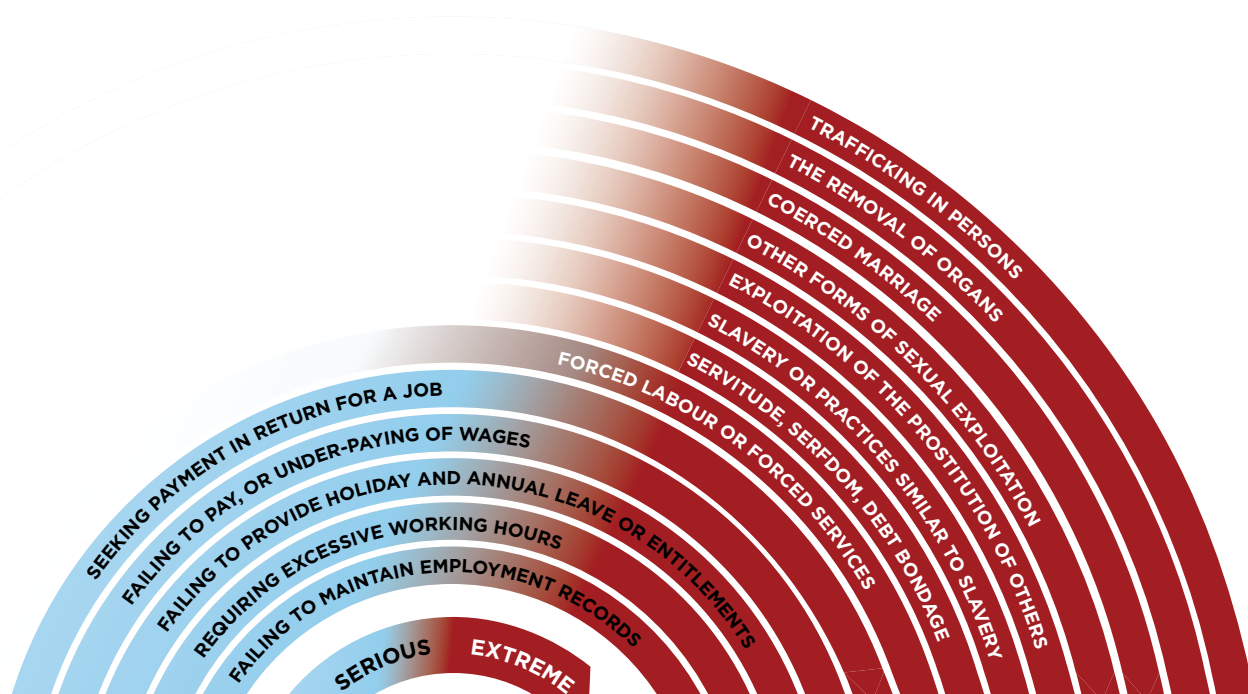
This Plan of Action refers to those who have experienced forced labour, trafficking and slavery as victims. This term is used for consistency with New Zealand's policy and legislative settings, including in relation to the treatments and rights provided under the *Victims' Rights Act 2002*, and with terminology used internationally including in the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children*. We understand that some civil society organisations prefer the term survivor, reflecting the hardship that affected people endure and their resilience in overcoming it. We acknowledge this hardship and resilience, and through this Plan of Action seek to ensure that all victims and survivors are effectively supported in their recovery.

### The continuum of exploitation

Exploitation takes many forms, including (but not limited to): requiring employees to pay for their job; denying leave; excessive work hours; under- or non-payment of wages; failure to provide an employment contract; retaining passports; controlling living conditions, movements and communications; and threats and intimidation. Some forms, such as underpayment of wages, can occur with varying levels of severity. At the most extreme end of the spectrum, exploitation includes forced labour and people trafficking.

This Plan of Action is focused on addressing exploitation at the extreme end of the spectrum, while recognising that a comprehensive approach needs to address less extreme forms of exploitation which may escalate over time.

The following diagram highlights a range of breaches and offences associated with exploitation. It is intended only to provide an illustration of relevant breaches and offences, and to highlight that these can be seen as occurring on a continuum from serious to extreme. It does not provide an exhaustive list of relevant breaches and offences, and does not accurately reflect the legal penalties for non-compliance.



A range of practices referenced in the diagram above are criminalised under legislation including the *Immigration Act 2009* and *Crimes Act 1961*. Further information on relevant provisions under these Acts is provided in **Appendix A**.

### 3. NEW ZEALAND'S APPROACH

New Zealand's actions and approach to addressing people trafficking, forced labour and slavery are underpinned by a range of international agreements that we are a signatory to.

The following international conventions and protocols, which New Zealand has ratified, directly address forced labour, people trafficking and slavery:

- the International Labour Organization (ILO)'s Forced Labour Convention, and the 2014 Protocol to the Forced Labour Convention ('Forced Labour Protocol')
- the United Nations (UN) Convention against Transnational Organised Crime, and its supplementary Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children ('Trafficking Protocol')
- the UN Slavery Convention, and the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery.

New Zealand has also ratified a range of international legal instruments which place obligations on us to take action in relation to women and children, who are internationally recognised as being disproportionately affected by modern slavery. These include the UN *Convention on the Elimination of All Forms of Discrimination against Women*, the UN *Convention on the Rights of the Child and its Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography*, the ILO *Worst Forms of Child Labour Convention*, and the Hague Conference on Private International Law's *Hague Convention on Protection of Children and Co-operation in Respect of Inter-country Adoption*.

New Zealand's approach is further shaped by our obligations and commitments under broader international instruments including the UN *Universal Declaration on Human Rights*, *International Covenant on Civil and Political Rights*, and the *International Covenant on Economic, Social and Cultural Rights*.

This Plan of Action against Forced Labour, People Trafficking and Slavery sets out the all-of-government approach to addressing these issues over the next five years. It brings together the various actions of government agencies under our three existing and internationally recognised pillars – prevention, protection and enforcement.

Taking a partnership approach, involving the promotion of enhanced cooperation across government agencies and with organisations outside of government, is fundamental to success across these pillars. While this Plan of Action reflects actions which will be undertaken by government, agencies will continue to work with non-government organisations, unions, businesses, local government, and international and regional bodies to address forced labour, people trafficking and slavery in New Zealand and abroad.

Accordingly, this Plan of Action should be seen in the context of, and complementary to, other related programmes and strategies underway. While people trafficking can occur both domestically and across borders, addressing trafficking in a transnational context will require taking a complementary approach to the implementation of New Zealand's Transnational Organised Crime Strategy and Action Plan and its strategic focus areas of unify, prevent, detect and dismantle.





A key focus for this Plan of Action is to consolidate and enhance the effectiveness of New Zealand's actions. It aims to take a victim-centred focus to its actions. The goals of the government's actions outlined in this Plan of Action are to:

- **Prevent forced labour, people trafficking and slavery** from occurring in New Zealand.
- Ensure that New Zealand businesses, government agencies and consumers do not inadvertently support forced labour, people trafficking and slavery through the purchase of goods or services across **global supply chains**.
- **Identify, assist and support victims** of forced labour, people trafficking and slavery.
- **Efficiently and effectively enforce** the law to disrupt and prosecute the people involved in forced labour, people trafficking and slavery, in a way that keeps victims at the centre of the response and deters future exploitation.
- Build greater **coordination and cooperation** between key government staff, nationally and internationally, to ensure effective prevention and enforcement against exploitation and the delivery of targeted services that protect victims.
- **Work in partnership with stakeholders outside of government** to build awareness and to progress actions to address forced labour, people trafficking and slavery within New Zealand and the wider Asia-Pacific region, including by sharing and learning from best practice approaches.

The actions in this document are presented at the end of each section in the following format:

ACTION	AGENCY	STATUS
--------	--------	--------

- **Action** – sets out the particular action that will be achieved by 2025, within the timeframe of this Plan of Action.
- **Agency** – lists the responsible agencies in acronym form<sup>8</sup>, including those with lead and supporting responsibilities, recognising that effective coordination and cooperation will be required to fully achieve each action. This column does not necessarily reflect the work undertaken by the full range of relevant agencies.
- **Status** – listed as either: ‘ongoing’ to reflect core operating activities; ‘underway’ for new projects that have begun; and ‘planned’ for projects which are forthcoming or for opportunities to be leveraged.

This Plan of Action provides a higher-level framework on the government’s actions and approach to addressing forced labour, people trafficking and slavery over the next five years. It recognises that our operating environment has and will likely continue to change, and there is accordingly a need to be flexible and agile in our approach. A separate Implementation Plan will be developed, detailing how agencies will achieve and measure each action.

<sup>8</sup> The full names of key agencies are provided in Appendix Two.



## 4. PREVENTION

Our **prevention** objectives are to support actions and activities that seek to address the drivers and vulnerabilities which can enable forced labour, people trafficking and slavery to occur, and to meet our international obligations. As an initial priority, we must increase knowledge and awareness of these practices, by government agencies as well as the wider public, including of their drivers and the attributes associated with vulnerability.

More people need to be able to recognise the signs and settings of serious exploitation, identify potential victims of exploitation, and know how to respond in ways that can support victims and prevent exploitation. This is particularly important for relevant people working in front-line roles, including those in: relevant law enforcement and regulator roles (including police, border, immigration, customs and labour inspectorate roles); the social, education and health sectors; and in non-governmental organisations supporting vulnerable communities. It is also important to engage with local communities and community groups, who can be best-placed to identify and refer cases of serious exploitation.

We must continue efforts to prevent and deter exploitation across its full spectrum, and address wider settings that can drive vulnerability. Recently announced changes to the employer-assisted temporary work visa system, and to employment and immigration law announced as part of the Temporary Migrant Worker Exploitation Review, will help to prevent migrant exploitation from occurring and continuing. Recent consumer credit law changes, including the introduction of limits on how much high-cost lenders can charge in interest and fees, will help reduce the risk of people entering into situations of vulnerability due to debt.

### Action to address exploitation in foreign charter fishing vessels

Forced labour and people trafficking have been widely reported internationally within the fisheries sector, where workers can be vulnerable to abuse while on board vessels in remote locations for long periods of time<sup>9</sup>. In New Zealand, the *Fisheries (Foreign Charter Vessels and Other Matters) Amendment Act 2014* was introduced following allegations of mistreatment and underpayment of foreign crews.

All foreign charter fishing vessels in New Zealand's exclusive economic zone (EEZ) are now required to be reflagged as New Zealand vessels, meaning they are subject to New Zealand law – including employment and health and safety law. Fisheries New Zealand Observers, who are trained on labour laws, are placed on board foreign-owned commercial fishing vessels and report any labour or health and safety breaches to the relevant regulator.

Employers of foreign crew on fishing vessels in New Zealand waters must also meet certain responsibilities and obligations in addition to complying with New Zealand law. These include, among other obligations: providing each crew member with a New Zealand bank account so that wage payments can be made directly to them in New Zealand; explaining to crew members their rights and obligations under New Zealand immigration and employment law; and providing each crew member with a copy of the *Important information for Foreign Fishing Crews working in New Zealand Waters* guide in their own language<sup>10</sup>.

9 See *Caught at sea: Forced labour and trafficking in fisheries*, International Labour Organization, 2013.

10 For more information, see: [www.immigration.govt.nz/new-zealand-visas/apply-for-a-visa/tools-and-information/work-and-employment/employer-responsibilities-and-obligations](http://www.immigration.govt.nz/new-zealand-visas/apply-for-a-visa/tools-and-information/work-and-employment/employer-responsibilities-and-obligations)

While it is critical that we address serious exploitation within New Zealand, we also need to support consumers and businesses to prevent and eliminate forced labour occurring internationally. New Zealanders may be unknowingly supporting this activity through their purchase of goods and services both here and overseas – in their purchases of clothing, food, electronics, accommodation and a range of other products and services.

### Principles to Guide Government Action to Combat Human Trafficking in Global Supply Chains

In September 2018, the Governments of Australia, Canada, New Zealand, United Kingdom and the United States jointly launched the *Principles to Guide Government Action to Combat Human Trafficking in Global Supply Chains*. The principles are as follows:

- **Principle 1:** Governments should take steps to prevent and address human trafficking in Government procurement practices
- **Principle 2:** Governments should encourage the private sector to prevent and address human trafficking in its supply chains
- **Principle 3:** Governments should advance responsible recruitment policies and practices
- **Principle 4:** Governments should strive for harmonization

These principles provide New Zealand with a framework by which the government and private sector can work together to prevent and eliminate forced labour and people trafficking in our supply chains.

New Zealand businesses are working within their own companies and sectors to eliminate exploitation from their supply chains. Government will maintain engagement on these developments and work with business representatives to identify ways to support businesses in their efforts to ensure that supply chains are free from exploitation.

### Promoting and supporting ethical and sustainable work practices

In July 2020, Employment New Zealand released the first of a series of Ethical and sustainable work practices resources. These resources support fair work places by placing a focus on employment standards, labour and human rights. The purpose of the resources is to help users to understand and apply ethical and sustainable work practices, in relation to how workers are treated, within their organisations and supply chains.

The resources highlight the increasing expectation from stakeholders that work places are fair. They also recognise that the expectations apply to all parties where people are employed or contracted as part of their undertaking. For example organisations acting as employers, franchisors, investors and procurers, businesses providing labour-on-hire, individuals acting as directors or managers, and work brokers.

The first release includes a suite of products and tools that provide employers and procurers with an approach to assuring ethical and sustainable work practices. Further resources are in development, and will be released over time, targeted at franchisors, recruiters, directors and investors.

The resources assist businesses to do the right thing in respect of workers, as well as helping create a more level playing field in which businesses that strive to do the right thing are not undercut by those that cut corners through poor practices.

In response to the United Nations Human Rights Council's *Universal Periodic Review* in 2019, New Zealand agreed to consider introducing legislation requiring businesses to report publicly on transparency in supply chains, to help eliminate practices of modern slavery in New Zealand and beyond its borders. New Zealand also agreed to develop and adopt a National Action Plan to implement the *United Nations Guiding Principles on Business and Human Rights*, which provide a global standard for preventing and addressing the adverse human rights impacts linked to business activity.

Government also has a role to play in addressing forced labour and people trafficking within its own supply chains through its procurement of goods and services. We will continue to evaluate the use of these channels to support efforts by businesses to address exploitation, and will work with businesses and others to identify ways to improve procurement to prevent forced labour and people trafficking.

### Leveraging Government Procurement to improve working conditions

The government has set expectations that will help address the risk of forced labour and people trafficking occurring in New Zealand via the *Government Procurement Rules, Government Procurement Charter and the Supplier Code of Conduct*<sup>11</sup>:

- **Expectations for Government agencies:** The new Government Procurement Rules and Charter sets expectations of how government agencies should conduct their procurement, and includes an expectation to engage with businesses with good employment practices. This expectation includes ensuring that any businesses agencies contract with operate with integrity, transparency and accountability, and respect international standards relating to human and labour rights.
- **Achieving broader priority outcomes:** The new Government Procurement Rules include the requirement for agencies to consider, and incorporate where appropriate, broader outcomes when purchasing goods, services or works. This includes a priority outcome to improve conditions for workers and future-proof the ability of New Zealand businesses to trade: this priority protects workers from unfair and unsafe behaviour, and incentivises well-performing firms while ensuring they are not undercut by firms who have reduced costs through poor labour practices.
- **Expectations for suppliers:** The Supplier Code of Conduct sets expectations for suppliers to government, and includes the expectation that suppliers will adhere to international human rights standards and monitor and address these standards in their supply chains.

Forced or coerced marriage has also been identified as a form of slavery by the United Nations, and is contrary to the *Universal Declaration on Human Rights*. While not a specific area of focus under this Plan of Action, forced marriage involving someone being coerced (such as through intimidation, threats or violence) into the marriage or civil union has recently been explicitly criminalised through the *Family Violence (Amendments) Act 2018*.

<sup>11</sup> For more information, see: [www.procurement.govt.nz/procurement/principles-charter-and-rules/](http://www.procurement.govt.nz/procurement/principles-charter-and-rules/)

## KEY ACTIONS:

### UNDERTAKE AWARENESS RAISING AND TRAINING ACTIVITY

ACTION	AGENCY	STATUS
1 Provide information resources and advice to vulnerable groups so that people in New Zealand know their rights.	MBIE DIA OEC MfW OT Police	Ongoing
2 Provide advice, information and training to enable relevant people working in front-line roles to better recognise people trafficking, forced labour and slavery, and take timely and appropriate action to identify and minimise harm.	MBIE Police Customs MFAT OT	Ongoing
3 Provide information resources and advice to employers to ensure they are aware of their employment and immigration obligations.	MBIE	Ongoing
4 Develop risk indicators and associated information sharing agreements for forced labour, people trafficking and slavery in New Zealand and the Asia-Pacific Region, to support onshore and offshore risk identification, disruption and investigation activities, and victim identification and rescue.	Customs MBIE Police	Underway
5 Improve accessibility of information so that anyone who experiences, sees or suspects exploitation knows where and how to report it.	MBIE	Planned

### PREVENT EXPLOITATION FROM ESCALATING THROUGH OPERATIONAL, POLICY AND LEGISLATIVE RESPONSES

ACTION	AGENCY	STATUS
6 Consider and progress opportunities to prevent and disrupt lower-level offending, such as breaches of employment standards, which can escalate into more extreme forms of exploitation.	MBIE	Underway
7 Consider opportunities to improve business oversight and practices by parties other than the direct employer, to ensure wider compliance with employment standards.	MBIE	Underway
8 Implement changes to make it easier for migrant workers to leave exploitative employment, through the development of a new dedicated reporting and triaging function and new temporary visa, which will help to prevent exploitation from further escalating.	MBIE	Underway

### ENHANCE INTERNATIONAL PREVENTION RESPONSES THROUGH REGIONAL COOPERATION

	ACTION	AGENCY	STATUS
9	Leverage and build on bilateral and multilateral agreements and forums to enhance cross-border information sharing and work to prevent forced labour and people trafficking.	MBIE MFAT	Ongoing
10	Develop and deliver bespoke training and capability building programmes with Asia-Pacific immigration and enforcement agencies.	MBIE Police MFAT	Ongoing
11	Identify mechanisms to assist in building greater child safeguarding measures in the Pacific.	OT MBIE	Planned
12	Identify ways to strengthen capacity and capability of social services/agencies in the Pacific to respond to child protection issues such as child trafficking and exploitation.	OT	Planned

### ELIMINATE FORCED LABOUR, PEOPLE TRAFFICKING AND SLAVERY FROM SUPPLY CHAINS

	ACTION	AGENCY	STATUS
13	Improve government procurement practices so that government purchasing more effectively supports good employment and supply chain practices, including combating forced labour, people trafficking and slavery from supply chains.	MBIE	Ongoing
14	Work with system and sector leaders, including business and union representatives, to develop and share tools, resources and information to support assurance of organisational and supply chain work practices, including recruitment processes.	MBIE	Ongoing
15	Build greater consumer awareness of forced labour, people trafficking and slavery, and identify actions that enable individual consumers to support the human rights of workers.	MBIE	Ongoing
16	Consider introducing legislation requiring businesses to report publicly on transparency in supply chains, to help eliminate practices of modern slavery.	MBIE	Planned
17	Work towards implementing the United Nations Guiding Principles on Business and Human Rights.	MBIE	Planned



## 5. PROTECTION

The Plan of Action puts identified victims of forced labour, people trafficking and slavery at the heart of New Zealand's response. Our **protection** objective is focused on actions and activities that will enable victims to be identified and protected. Our priority is to ensure that the wide range of support and assistance available to victims remains fit-for-purpose, and responsive to the trauma and effects of these practices on them.

Significant effort is undertaken to identify potential victims through a range of means, including by investigating virtual networks that facilitate crimes such as sexual exploitation. This work will continue, but the processes for identifying and providing protection to victims should be reviewed to ensure they remain fit-for-purpose.

### **OCEANZ Addressing Online Child Sexual Exploitation**

The Online Child Exploitation Across New Zealand (OCEANZ) team, a specialist Police unit, proactively works as part of a Virtual Global Taskforce to protect children from online child abuse<sup>12</sup>. This assists in addressing the growing problem of children being trafficked for this form of exploitation.

OCEANZ partners with agencies within New Zealand and internationally to coordinate investigations into online paedophile networks and to identify child sexual offenders. It does this by targeting websites, including those in New Zealand, producing images of abuse and offering them for financial gain.

The objectives of the work are to:

- identify and rescue victims, and ensure their protection, wherever they may be
- actively cooperate with international partners to support the prosecution of offenders.

A wide range of support and assistance is available through government channels for certified victims of trafficking in New Zealand. Services available to victims can include, depending on circumstances, assistance with:

- accommodation
- income support
- counselling and medical support
- legal assistance
- compensation or reparation
- immigration visas (identified and certified victims of trafficking are legally eligible to remain temporarily in New Zealand, and permanently in some instances)
- repatriation
- education opportunities (for minors) or employment assistance.

A range of support and services that victims can access is also provided by non-governmental organisations. The amount and type of this support is based on processes and policies established by the individual organisations.

<sup>12</sup> For more information see: [www.police.govt.nz/advice-services/cybercrime-and-internet/online-child-safety](http://www.police.govt.nz/advice-services/cybercrime-and-internet/online-child-safety)



Victims can be traumatised by their experience, and agencies know they need to provide ongoing support so that victims are not re-traumatised by the sometimes lengthy investigation and prosecution process. Focused and ongoing support may be required including after a person is freed from exploitation. The support and assistance provided to certified victims is not dependent on their willingness or ability to participate in an investigation and prosecution.

The previous Plan of Action set out and built upon the range of support services available to victims of people trafficking, which now comprise a comprehensive package of wraparound support. There is an opportunity to learn from our experiences and take further steps to better facilitate the delivery of this support, to enable the more efficient delivery of protection and recovery services. This will assist in creating an environment in which victims feel confident in coming forward, either by themselves or by referral from others.

It is also important to ensure that vulnerable groups, such as temporary migrants and younger people, are aware of the protections available to them in cases of exploitation and are able to access those protection measures. As well as raising awareness of the minimum employment entitlements available to all employees, which include protections against being charged premiums for jobs, this includes raising awareness of the means and opportunities to seek remedies where those entitlements have not been provided. It also includes taking steps to improve the mechanisms for reporting and responding to exploitation, so that these do not present a further barrier to the ability of victims to seek remedies.

### **Improving avenues for reporting and responding to migrant exploitation**

To better protect temporary migrant workers (including international students), the government is introducing a dedicated phone line and online reporting system that connect to a specialised migrant exploitation reporting and triaging function. This will support the joint work of the two main regulators in this area – Immigration New Zealand and the Labour Inspectorate – and better enable them to effectively and efficiently respond to migrant exploitation.

In addition, the government has announced it will be introducing a new visa for exploited migrants to enable them to lawfully stay in New Zealand and find work with a different employer. This will enable migrants to quickly leave exploitative situations without having their immigration status negatively affected, and increase the incentives for migrants to report exploitation.

These measures have been introduced as a result of the Temporary Migrant Worker Exploitation Review. They aim to address concerns that migrants are often unaware of the support that is available to them, and that even when they are aware may be reluctant to report exploitation out of fear that this could jeopardise their immigration status. These measures will also help to prevent exploitation from further escalating.

Further research is needed to better understand the nature and prevalence of forced labour, people trafficking and slavery in New Zealand. Current estimates on the extent and nature of these hidden crimes are derived from overseas experience, which does not align with New Zealand's experience to date. Enhancing our knowledge, including through analysis of cases, will allow us to better identify and protect victims by improving our understanding of the problems, risks, and the 'push' and 'pull' factors in a New Zealand context.

### **Research into the nature of migrant worker exploitation**

Exploitation is a hidden problem, making it difficult to obtain evidence on its nature and especially its prevalence in New Zealand. Independent research into the nature of temporary migrant worker exploitation in New Zealand was undertaken as part of the government's Review into Temporary Migrant Worker Exploitation<sup>13</sup>.

Through a wide range of stakeholder interviews the researchers found that exploitation was widespread and they reported hearing of multiple types, as well as instances, of exploitation. Exploitation ranged from breaches of employment standards through ignorance to more systematic and deliberate approaches. The most unscrupulous employers preyed on the vulnerability of migrants, including by taking advantage of their immigration status.

This independent research has informed the work of the Review into Temporary Migrant Worker Exploitation, which is an ongoing programme of work. Initial changes to policy, legislative and operational settings, including the aforementioned introduction of dedicated reporting and triaging functions and special visa for exploited migrants, were announced in July 2020.

---

<sup>13</sup> To view the independent research and other background documents relating to the Review see: [www.mbie.govt.nz/document-library/search?keywords=tmex&df=&dt=](http://www.mbie.govt.nz/document-library/search?keywords=tmex&df=&dt=)

## KEY ACTIONS:

### PROVIDE FOR THE EFFECTIVE AND EFFICIENT DELIVERY OF SUPPORT SERVICES TO VICTIMS

	ACTION	AGENCY	STATUS
18	Facilitate processes for the efficient delivery of support services to victims of people trafficking.	MBIE OT Police - ( <i>Victim Support</i> )	Planned

### IMPROVE INFORMATION FOR VICTIMS OF EXPLOITATION AND VULNERABLE GROUPS

	ACTION	AGENCY	STATUS
19	Continue to develop information sources for migrants on their work rights and entitlements, including during the recruitment and placement process, and on where to seek support to protect themselves in exploitative situations.	MBIE	Ongoing
20	Work with social sector agencies and non-governmental organisations to help inform exploitation victims of their rights, and opportunities to seek help and assistance.	MBIE Police	Ongoing

### IMPROVE OUR UNDERSTANDING OF EXPLOITATION TO ENABLE BETTER TARGETING OF ACTIONS AND MEASURES

	ACTION	AGENCY	STATUS
21	Undertake research and monitoring activity to better understand the nature and extent of forced labour, people trafficking and slavery in New Zealand.	MBIE Police OT	Ongoing



## 6. ENFORCEMENT

Our **enforcement** objective is to ensure that the enforcement tools available to disrupt and prosecute the businesses and individuals who exploit others, or benefit from the exploitation of others, are effectively used. Our initial priority in this area is ensuring that our operational, policy and legislative settings are fit-for-purpose in enabling a wide range of enforcement activity and align with New Zealand's international obligations.

Forced labour, people trafficking and slavery are the most serious forms of exploitation. The prosecution of offenders for these crimes deters others from engaging in these forms of exploitation, and provides justice for victims and wider society. Wider enforcement of criminal and civil laws against those who exploit others are also effective means of deterring exploitative behaviours.

Punishment involves criminal sanctions including imprisonment and fines, but may also include other actions such as:

- Seizing the assets acquired or derived from the proceeds of crime such as exploitation and people trafficking.
- Banning those convicted of exploitation or trafficking in persons offences from accessing temporary migrant workers through the immigration system.
- Deporting those convicted who trigger the relevant criteria in the *Immigration Act 2009* (generally, they must have been residents for less than ten years).

This kind of offending often occurs in conjunction with other offences and breaches across the jurisdiction of multiple regulators. Investigation and enforcement activities therefore need to be coordinated to ensure outcomes are efficiently and effectively delivered. This includes effectively triaging and responding to individual enquiries relating to forced labour, people trafficking and slavery, and undertaking effective cross-agency investigations.

### **Joint Immigration New Zealand and Police investigation results in convictions for slavery and trafficking in persons**

Following an extensive joint investigation by Immigration New Zealand and Police, an individual was found guilty in March 2020 of 13 slavery charges and 10 trafficking in persons charges. He was sentenced to 11 years imprisonment in July 2020, and ordered to pay \$183,000 in reparations to the victims. The convictions and sentence are currently under appeal and are due to be heard in 2021.

The offending related to 13 Samoan nationals that the offender arranged to bring to New Zealand between 1994 and April 2019, in a number of cases after promising well-paid jobs. The sentencing notes of Justice Cull noted that the offender "abused [his] position of trust and authority in relation to the victims". They also noted that those victims were vulnerable as they were "poor, mostly poorly educated and most had never travelled out of Samoa before" and were "because of [his] arrangements, illegal workers and illegal immigrants."

The investigation was undertaken with valuable assistance from the Samoan authorities, underscoring the need for partnership and cooperation both domestically and internationally to combat these crimes.

The cases of people trafficking that have been prosecuted in New Zealand to date do not reflect global trends for people trafficking in terms of gender or the type of exploitation. Most victims in New Zealand identified to date have been men who were trafficked for purpose of labour exploitation. This may not reflect the full spectrum of people who are trafficked or exploited in New Zealand, as the hidden nature of these crimes means that vulnerable people are less likely or able to seek help or report their experience. A key component of the work of agencies is to bring these experiences to light to enable successful identification of victims, and the disruption and prosecution of offenders involved in these crimes.

As the nature of forced labour and people trafficking continues to evolve, legislative settings need to ensure offenders can be held to account for their activities. To better align our existing criminal offences with the Trafficking Protocol, changes to the *Crimes Act 1967* should be considered to strengthen provisions relating to the criminalisation of trafficking in children (under 18 years of age).

The government has agreed to strengthen the legal framework relating to migrant exploitation, including by introducing new immigration infringement offences and further restricting the ability for employers that have committed offences to employ temporary migrant workers. We will continue to monitor legislative settings to ensure that all forms of exploitation of individuals are appropriately criminalised and penalised.

Partnership and co-operation at a national, regional and international level is a key factor in successfully investigating and prosecuting those involved in forced labour, people trafficking and slavery undertaken by New Zealanders online and overseas.

### Trafficking in Persons Operations Group

Government agencies that take enforcement actions against cross-border people trafficking and forced labour have partnered to establish a Trafficking in Persons Operations Group. The Group has representatives from: the Ministry of Business, Innovation and Employment; New Zealand Police; Oranga Tamariki – Ministry for Children; New Zealand Customs Service and the Department of Internal Affairs.

This Group is used to support lawful information sharing, and collaborative and coordinated investigations and prosecutions, to combat trafficking in persons and forced labour. This enables successful outcomes such as the conviction of an individual on joint trafficking in persons and slavery charges (see box above).

The United Nations Convention against Transnational Organised Crime (TNOc) and other multilateral agreements provide a range of legal mechanisms to support New Zealand's investigations with cross-border information sharing, joint investigations, mutual legal assistance and extradition of offenders.

These international legal mechanisms are supplemented by multilateral forums aimed at addressing forced labour and people trafficking, including by providing avenues for effective information sharing and practical cooperation. New Zealand actively engages with the *Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime* ('Bali Process'), including as co-chair of the Bali Process Working Group on the Disruption of People Smuggling and Trafficking in Persons Networks.

New Zealand's international engagement can be enhanced through a regional and Pacific community of interest for relevant agencies and people to exchange experiences, information and support in addressing trafficking and migrant exploitation. This includes leveraging existing Pacific and regional networks, such as the Pacific Immigration Development Community (PIDC), Pacific Islands Chiefs of Police (PICP) Secretariat, and Oceania Customs Organisation (OCO).

## KEY ACTIONS:

### STRENGTHEN OPERATIONAL, POLICY AND LEGISLATIVE SETTINGS TO ENHANCE ENFORCEMENT AND ALIGN WITH INTERNATIONAL OBLIGATIONS

ACTION	AGENCY	STATUS
22 Continue to support victims to participate in the criminal justice process, including through the provision of appropriate support.	MBIE MoJ Police	Ongoing
23 Review and amend, as appropriate, policy and legislative settings to ensure they are fit-for-purpose in enabling the disruption, prosecution, and recovery and confiscation of income derived through exploitation in its wider context.	MBIE Police	Underway
24 Consider amending the <i>Crimes Act 1961</i> to strengthen provisions for the criminalisation of trafficking in children (under 18 years of age).	MoJ	Planned

### IMPROVE COOPERATION IN INVESTIGATIONS ACROSS GOVERNMENT AGENCIES

ACTION	AGENCY	STATUS
25 Strengthen cooperation between enforcement agencies to support efficient and effective responses to enquiries relating to forced labour, people trafficking and slavery.	MBIE Police	Underway

### IMPROVE INTERNATIONAL COOPERATION AND PARTNERSHIP

ACTION	AGENCY	STATUS
26 Continue to support and contribute to international efforts to address forced labour, people trafficking and slavery through ongoing engagement in multilateral forums.	MBIE Police MFAT	Ongoing
27 Continue engagement with agencies, organisations and forums working to address forced labour and people trafficking in the Pacific.	MBIE Police MFAT Customs	Ongoing
28 Continue capacity building activities to support the disruption and prosecution of forced labour, people trafficking and slavery.	MBIE Police MFAT	Ongoing

## APPENDIX A: NEW ZEALAND'S LEGAL FRAMEWORK

This section provides information supplementary to that included in the 'Scope, Terms and Definitions' section on page 4.

The most serious forms of exploitation (referenced in the diagram on page 5) are criminalised through a range of legislation, including in particular the *Crimes Act 1961* and *Immigration Act 2009*. These include:

OFFENCE	PROVISION	MAXIMUM PRISON SENTENCE
Dealing in slaves (defined as including, without limitation, a person subject to debt bondage or serfdom)	Crimes Act s 98	Up to 14 years
Dealing in people under 18 for: <ul style="list-style-type: none"> <li>sexual exploitation</li> <li>removal of body parts</li> <li>engagement in forced labour</li> </ul>	Crimes Act s 98AA	Up to 14 years
Trafficking in persons (see pages 25 to 25 for further information on this offence)	Crimes Act s 98D	Up to 20 years, fine up to \$500,000
Coerced marriage or civil union	Crimes Act s 207A	Up to 5 years
Exploitation of unlawful employees and temporary workers	Immigration Act s 351	Up to 7 years, fine up to \$100,000

Various employment Acts provide for minimum employment standards, including the Holidays Act 2003, the Minimum Wage Act 1983, and the Wages Protection Act 1983.

### The difference between people trafficking and people smuggling

People trafficking (defined on page 3) is different to people smuggling, though there is confusion globally and in New Zealand between these two crimes.

**People smuggling** occurs where a person arranges for a migrant to be brought to New Zealand or to another other State outside the usual, lawful channels. The migrant is fully aware and consents to unlawful travel being organised, and a people smuggler profits from the act of smuggling.

Coercion or deception, and the intended exploitation a person, are not elements of people smuggling. Coercion, deception and exploitation are elements of **people trafficking**. A people trafficker benefits, or intends to benefit, from their actions which may (but does not necessarily) include seeking to profit from exploitation as a result of trafficking.

## THE KEY DIFFERENCES BETWEEN PEOPLE TRAFFICKING AND PEOPLE SMUGGLING

PEOPLE TRAFFICKING	PEOPLE SMUGGLING
Crime against a person.	Crime against the State.
Domestic or cross border.	Always cross border.
Consent is irrelevant as the victim has been coerced, deceived, or both at some stage.	A person freely and knowingly consents to being smuggled.
A person is trafficked for the intended purpose of their exploitation (though exploitation does not need to occur for an offence to be committed in New Zealand).	A person is smuggled for the purpose of them gaining access to a country.
A trafficker benefits, or intends to benefit, from their actions which can include exploitation as a result of trafficking.	A smuggler typically profits from the payment that they receive from the smuggled person.

### The difference between forced labour and people trafficking, and worker exploitation

It is not always clear when breaches of employment standards and workplace exploitation are forced labour or people trafficking. Differences lie in the purpose, level and gravity of exploitative action, as well as whether there is (or is intent to engage in) coercion or deception of the victim.

Forced labour and people trafficking sit at the extreme end of workplace exploitation. A business or employer may have deliberately recruited or received the worker with the purpose of exploiting them. Forced labour and people trafficking can also occur outside the workplace and can include, for example, sexual exploitation and the exploitation of children.

Workplace employment breaches, such as the withholding or underpayment of wages or requiring excessive hours of work, are indicators that forced labour and/or people trafficking may be occurring. A business or employer may have deliberately recruited or received the worker with the purpose of exploiting their labour for financial gain.

### Trafficking in Persons in the Crimes Act 1961

In 2002, New Zealand criminalised people trafficking by amending the *Crimes Act 1961* (the Crimes Act) and introducing a new section 98D ('trafficking in persons'), giving effect to the Trafficking Protocol. The *Crimes Act* includes people trafficking which:

- Occurs both across borders and within the country
- Victimises any person – with no distinction based on, for example, visa status, nationality or gender
- Takes place with or without the involvement of organised crime groups
- Is undertaken for any of a range of exploitative purposes, as well as for knowing that the entry or exit of the person across national borders involves one or more acts of coercion and/or deception against the person.



The exploitative purposes which section 98D of the *Crimes Act* covers are:

- prostitution or other sexual services
- slavery, practices similar to slavery, servitude, forced labour, or other forced services
- the removal of organs.

Those convicted of people trafficking may be penalised through a maximum term of imprisonment not exceeding 20 years, a fine not exceeding \$500,000, or both. Providing for a fine enables an appropriate penalty to be imposed on businesses or organisations that engage in people trafficking.

In New Zealand and under the *Crimes Act*:

- a person does not need to be moved across an international border
- it is irrelevant whether a victim may have consented to being trafficked, where they have been coerced or deceived
- a perpetrator does not have to achieve their intended action, for example to recruit or receive a person
- victims do not need to have experienced exploitation.

The *Crimes Act* and *Immigration Act 2009* also criminalise a number of crimes which are associated with, or can have similar characteristics to, the exploitative practice of people trafficking. These are noted in the table on page 22.

## APPENDIX B: KEY AGENCIES

Addressing forced labour, people trafficking and slavery requires the combined and coordinated efforts of many government agencies. This list provides an overview of the key agencies involved in the government's efforts to address these crimes. However, all agencies have a role to play – whether directly, such as through awareness-raising and training of front-line staff, or indirectly, such as through procurement.

**Ministry of Business, Innovation and Employment (MBIE)** – Immigration New Zealand and Employment New Zealand (including the Labour Inspectorate) are part of MBIE, which is responsible for leading work across government to prevent exploitation, forced labour and cross-border people trafficking. MBIE is also the functional leader for government procurement and property, under which its role includes helping government agencies with building procurement and property capability, and providing support, advice and expertise.

**New Zealand Police** – Police works with the community to make New Zealanders be safe and feel safe. It is responsible for law enforcement and crime prevention in relation to a range of criminal offences covered in this Plan of Action including slavery, people trafficking that occurs within New Zealand, sexual exploitation and coerced marriage.

**Ministry of Justice (MoJ)** – MoJ is the lead agency in the justice sector and the lead agency on Crown/Māori Relations for the government. It is responsible for administering the Crimes Act 1961, which provides for criminal offences including trafficking in persons, slavery and coerced marriage.

**Ministry of Social Development (MSD)** – MSD is the lead agency for the social sector. It provides policy advice and delivers social services and assistance to New Zealanders to improve their social wellbeing. Victims of people trafficking may be eligible for special needs grants administered by MSD.

**Oranga Tamariki – Ministry for Children (OT)** – Oranga Tamariki is the government agency responsible for the provision of statutory care and protection, youth justice and adoption services. The role of Oranga Tamariki is to assist in providing support and protection to any child in New Zealand whose wellbeing is at significant risk of harm, and ensuring that decisions being made are in the best interest of the child.

**New Zealand Customs Service** – The main purpose of Customs is to stop any dangers, hazards and threats entering New Zealand. Customs officers play a key role in stopping criminals from entering New Zealand, and in identifying potential victims at the border.

**Department of Internal Affairs (DIA)** – DIA serves and connects people, communities and government to build a safe, prosperous and respected nation. It includes the Office of Ethnic Communities (OEC), which provides information, advice and services to, and for, ethnic communities in New Zealand and administers funds to support community development and social cohesion. DIA's responsibilities include identity verification and authentication services, and it administers the Digital Child Exploitation Filtering System to block websites that host child sexual abuse images.

**Ministry of Foreign Affairs and Trade (MFAT)** – MFAT is the Government's specialist foreign, trade and development policy adviser, international legal adviser and negotiator. It is responsible for delivering the Government's foreign policy, trade and development priorities, and for providing consular services for New Zealanders overseas.

**Ministry of Health (MoH)** – MoH leads New Zealand's health and disability system, and has overall responsibility for the management and development of that system. Victims of people trafficking are eligible to receive publicly funded health services.

**Ministry for Women (MfW)** – The Ministry for Women, Te Minitatanga mō ngā Wāhine, is the Government’s principal advisor on achieving better results for women, and wider New Zealand. The Ministry’s responsibilities include providing policy advice on improving outcomes for women in New Zealand, and managing New Zealand’s international reporting obligations in relation to the status of women.