

SUMMARY DISCUSSION DOCUMENT

A LEGISLATIVE RESPONSE TO MODERN SLAVERY AND WORKER EXPLOITATION

Towards freedom, fairness and dignity
in operations and supply chains



Te Kāwanatanga o Aotearoa
New Zealand Government



**MINISTRY OF BUSINESS,
INNOVATION & EMPLOYMENT**
HĪKINA WHAKATUTUKI

Ministry of Business, Innovation and Employment (MBIE)

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MBIE develops and delivers policy, services, advice and regulation to support economic growth and the prosperity and wellbeing of New Zealanders.

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IMPORTANT

To report migrant exploitation, contact the MBIE Service Centre on **0800 200 088** or go to **reportmigrantexploitation.employment.govt.nz**

To report any other worker exploitation, call Employment New Zealand **0800 20 90 20** or fill out a form on **www.employment.govt.nz/about/email-us**

To report anonymously, call Crimestoppers on **0800 555 111** or fill out a form on **crimestoppers-nz.org**

To report people trafficking, call New Zealand Police **105** or **111** (if it is an emergency)

HOW TO HAVE YOUR SAY

Making a written submission

The Ministry of Business, Innovation and Employment (MBIE) opened this consultation on 8 April 2022. It seeks submissions by 7 June 2022.

We will accept submissions in any form.

You can provide us with feedback in any way you are comfortable. If you use our submission forms, this will help us to collate submissions.

Your submission may respond to any or all of the issues we ask about.

You do not have to answer all of the questions we ask. You may also want to tell us about other things that you think will help address modern slavery and worker exploitation in supply chains.

You can make your submission by one of these means:

- By online survey at this link mbie.govt.nz/have-your-say/modern-slavery OR
- By filling in the answer fields in the online document at this link mbie.govt.nz/have-your-say/modern-slavery and emailing your submission to us at modernslavery@mbie.govt.nz OR
- By printing off a document at this link mbie.govt.nz/have-your-say/modern-slavery and mailing your submission to:

International Labour Policy
Workplace Relations and Safety Policy
Ministry of Business, Innovation & Employment
PO Box 1473
WELLINGTON 6140

Please send any questions to modernslavery@mbie.govt.nz

WHAT DO WE WANT TO KNOW?

We want to know how best to facilitate lasting cultural change and encourage best practice to support freedom, fairness and human dignity across the operations and supply chains of entities.

We also want to know about the impact of the proposals and options presented in this document. These proposals and options affect all of us, including each of us personally as individual consumers.

We want to hear about the impacts for victims and survivors, entities of all types, and individuals. We want to know what you think the benefits of the proposals and options might be, as well as their costs. We also want your ideas about how the proposals and options could be designed and implemented effectively.

HOW WILL WE USE YOUR SUBMISSIONS?

We will analyse the submissions and publish a summary of the submissions we receive on MBIE's website. This will inform further work on the options.

We may publish individual submissions with any personal information removed. By making a submission we will consider you to have consented to its publication on the MBIE website, unless you clearly specify otherwise. Please clearly signal if your submission contains any information that you do not want published.

If a submitter (that is, a person who makes a submission) provides their contact details, we may contact them if we require clarification of any matters in submissions or would like further information from them.

The *Privacy Act 1993* applies to all submissions. Any personal information you supply to MBIE in the course of making a submission will only be known by the team working on this project. Personal information will be withheld from any information releases and publications.

Submissions may be requested under the *Official Information Act 1982*. MBIE will consult with submitters when responding to requests under the *Official Information Act 1982*.

BACKGROUND AND SUPPORTING MATERIALS

To support the public consultation, the Minister for Workplace Relations and Safety has proactively released the Cabinet paper that put forward the proposals and options in this paper, as well as briefings the Minister received in advance of the Cabinet paper.

These documents can be found at this link mbie.govt.nz/have-your-say/modern-slavery.

We have prepared case studies and other supporting materials to help explain the proposals in this document. These materials can be found mbie.govt.nz/have-your-say/modern-slavery.

MINISTER'S FOREWORD



Treating people fairly and with dignity is the New Zealand way.

New Zealanders have a growing awareness about the issue of worker exploitation and modern slavery in supply chains, and more of us want to make sure the goods and services we purchase are not contributing to harm.

Yet we know that, within New Zealand as well as across the world, worker exploitation and modern slavery persists. The International Labour Organization has estimated that there are over 40 million victims of modern slavery in the world, including 25 million people in forced labour. Meanwhile, Employment New Zealand continues to find cases of temporary migrant worker exploitation, and in 2020 an individual was convicted of people trafficking and slavery for offending that had occurred in New Zealand over 24 years.

Due to the changing nature of modern slavery and the need for an effective all-of-government response, last year I released New Zealand's *Plan of Action against Forced Labour, People Trafficking and Slavery*. A key focus of the Plan of Action was on prevention, and as part of this we committed to exploring the potential for legislation to address modern slavery in supply chains. This builds on and integrates our current work programme to combat temporary migrant worker exploitation.

We have now developed proposals for legislation that are designed to achieve freedom, fairness and dignity across operations and supply chains, both in New Zealand and overseas. Our international trading partners are already taking action to address modern slavery, and we have drawn from their experiences to develop proposals that could make a real difference in New Zealand.

The focus of this discussion document is on what responsibilities and obligations will apply, and who will be covered. It includes higher-level questions on how the legislation will work, covering issues such as independent oversight and the provision of a central register for disclosure statements. You are welcome to comment on as many or as few of the issues as you wish.

These proposals will affect all of us and it is vital that the legislation is informed by a wide range of perspectives. I would like to take this opportunity to thank the Modern Slavery Leadership Advisory Group (LAG) for supporting the development of the proposals to this stage, with special thanks to Rob Fyfe for chairing this Group. The LAG has brought together businesses, non-governmental organisations, unions and academics, and has been instrumental in enabling the development of a set of proposals that are designed to drive meaningful change.

We would now like to hear from you on these proposals. We want to hear from victims and survivors, from all types of organisations, and from individuals.

I know that there is wide public support for modern slavery legislation. Last year I received an open letter signed by over 100 businesses and a public petition signed by more than 37,000 people calling on the Government to implement modern slavery legislation.

For any legislation to be effective it is critical that we achieve lasting cultural change. Thinking about the conditions in which our goods and services are produced needs to be integrated into how we operate and how we make purchasing decisions. I look forward to building on the strong momentum we have now, and to hearing your views on how legislation can be designed to deliver meaningful change and make a real impact for people in New Zealand and around the world.

Hon Michael Wood
Minister for Workplace Relations and Safety

FOREWORD



As a businessman and proud New Zealander, I'm acutely aware of the challenges and anxieties that we are all confronting as we navigate the Covid-19 pandemic.

Many of those challenges are immediate and threaten the health and safety of our loved ones, our way of life, the viability of our businesses or our future employment.

As a result, I understand that there will be people that ask "why should I turn my attention to this issue of modern slavery and worker exploitation in our supply chains at this time, when there are more immediate issues to resolve much closer to home?"

I believe as business leaders, consumers and New Zealanders, it's long overdue that we step up and take greater responsibility for protecting the fundamental human freedoms of all those involved in the production of the goods and services we consume.

I find it unimaginable that in 2022 there are over 25 million people around the world who are being forced to work in slave like conditions, who are being exploited, or who have had their freedoms curtailed in material ways, while we continue to consume the products and services they produce. Usually, these practices are not in plain sight, so if we choose not to look, not to do appropriate due diligence and audits, not to follow up on whistle blower complaints and to adopt an attitude of "out of sight, out of mind" - then we implicitly become a party to this evil.

Throughout the last two years, we have all experienced having our freedom of movement curtailed for relatively short periods of time as a result of Covid lockdowns. Imagine the pain and suffering inflicted on people who have this freedom, and many others, curtailed for a lifetime, as they simply try to provide a better future, or any future, for their families.

Sadly, history tells us that at times of global disruption, with economies and supply chains under stress, combined with greater restrictions on our ability to travel and observe firsthand what is going on in our supply chains - the problems of modern slavery and worker exploitation, along with the associated human misery, are amplified.

Over recent years, a number of countries have introduced modern slavery legislation which places greater expectations on businesses to identify and address modern slavery practices in their supply chains. In parallel, within many businesses I'm involved in, we see consumers becoming much more demanding of businesses to take proactive steps on this issue. As a proud trading nation, we have the opportunity to step up and be amongst the countries showing global leadership on this issue, and I believe we must act now.

Over the past 12 months, I have had the privilege of chairing a leadership advisory group comprising business and community leaders along with academic and subject matter experts working alongside Minister Wood and a team from MBIE to develop the framework for the introduction of Modern Slavery Legislation in New Zealand. We are excited that the proposal is now ready for consultation and hope that all New Zealanders will come together and support New Zealand playing our part in eradicating all forms of slavery and worker exploitation.

Rob Fyfe

Chair of the Modern Slavery Leadership Advisory Group

MODERN SLAVERY AND WORKER EXPLOITATION LEGISLATIVE PROPOSAL

We are proposing legislative options to help prevent modern slavery and worker exploitation

The Government committed in its 2020 Election Manifesto to continuing “work to stamp out migrant worker exploitation with a focus on exploring the implementation of modern slavery legislation in New Zealand to eliminate exploitation in supply chains”. On 16 March 2021, Workplace Relations and Safety Minister Hon Michael Wood released New Zealand’s all-of-government Plan of Action against Forced Labour, People Trafficking and Slavery ([the Plan of Action](#)). As part of the Plan of Action, the Government committed to considering legislation to address modern slavery in supply chains.

This document proposes legislation that would reduce exploitative practices domestically and overseas. To achieve this we will need to work collaboratively across government and with business and civil society to improve operational and supply chain practices to eliminate worker exploitation.

The primary objective for the proposals set out in this document is to reduce modern slavery and worker exploitation in New Zealand and elsewhere, helping to build practices based on fairness and respect. The secondary objectives that support this primary objective are to:

- enhance New Zealand’s international reputation as a country that supports human rights and transparency
- strengthen New Zealand’s international brand and make it easier for our businesses to continue to trade with the world
- support consumers to make more informed choices in relation to modern slavery and worker exploitation risks associated with goods and services
- drive culture and behaviour changes in entities which lead to more responsible and sustainable practices
- level the playing field for entities which act responsibly across their operations and supply chains.

The legislation would only be one part of the picture and it will need to be accompanied by extensive promotion, guidance and support for entities. We need to build a collective understanding of the issues and a long-lasting culture change which encourages collaboration.

Modern slavery and worker exploitation negatively impacts us all

Modern slavery and worker exploitation practices take many forms. At the most extreme end of the spectrum, they can include forced labour, debt bondage, forced marriage, other slavery and slavery like practices, and human trafficking. While there is no internationally agreed definition of modern slavery, it is commonly understood to refer to the most extreme forms of exploitation. In this document, worker exploitation includes non-minor breaches of employment standards in New Zealand.

Modern slavery, whether it occurs here or overseas, has implications for us all. Perpetrators deny people their basic rights, and a victim of slavery can face severe physical and emotional harm that can last for the rest of their life. The direct impact on victims cannot be adequately quantified but it is significant and can undermine a person's essential rights.

The use of modern slavery and worker exploitation in supply chains creates an environment based on unfair competition, in which exploitative practices can be leveraged to get ahead. On the other hand, taking action to prevent modern slavery and exploitation, and to maintain employment standards can help an entity improve its relationships with suppliers and protect its reputation. Entities which take action may also identify opportunities to reduce costs, improve the quality of their products, and gain certainty of supply by improving their understanding of markets, supply options and operational risks.

We want to ensure that workers in our supply chains are treated fairly and with dignity

New Zealanders want to know that our actions contribute to a fair world where people are treated with respect and dignity. New Zealanders are global citizens and we stand against exploitation here and overseas. Addressing the harms of modern slavery and exploitation requires us to build on our connections and work with partners around the world. Accordingly, our overall focus is on making lasting change to practices and cultural change, so these issues become an ongoing consideration for all entities.

Taking action to advance these values will take collective global effort including at the multilateral (United Nations and International Labour Organization) and individual country levels. As the world becomes more globalised, there are more opportunities for our people and the economy to thrive. However, this also increases the risks of our actions having harmful effects globally.

We would also like to hear more about how kaupapa Māori could help inform the design of the proposals, and about any potential disproportionate impacts on Māori.

New Zealand is not going to be able to solve the global problem of modern slavery on our own. We are a small part of international trade and supply chains. However, other countries, including Australia, France, Germany and the United Kingdom, have recently put measures in place to address modern slavery and worker exploitation. We can help shift practices in the right direction, while also ceasing to contribute to the problem.

We have focused on options that will treat the underlying causes of modern slavery and worker exploitation, rather than just the symptoms. Any solution will require a comprehensive approach aimed at building best practice and working with different parts of the economy and communities.

New Zealand trades on our reputation for fair treatment of workers

New Zealand is a strong advocate of international law, sustainable development, and human rights. Our efforts to protect human rights have helped us to rank second in the world in the Fraser Institute's Human Freedom index.¹ We have sought to include treaty-level provisions on labour and environment in all free trade agreements since 2001. New Zealand was a founding member of the International Labour Organization (ILO) and has had a strong association with it historically, which includes support for conventions aimed at addressing and outlawing slavery.

Addressing exploitation in supply chains and operations will have benefits for New Zealand exporters. Just like in New Zealand, consumers overseas and our trading partners are becoming more concerned about the treatment of workers and want to know that they are not contributing to harm. These concerns are likely to become a bigger part of international trade, as our trading partners are putting additional measures in place to manage the risks of human rights abuses in supply chains and operations. Businesses who can show that their supply chains are free of slavery and exploitation will find it easier to export to these markets.

1 www.fraserinstitute.org/sites/default/files/human-freedom-index-2021.pdf

There is modern slavery and worker exploitation all around the world

While there are significant methodological challenges in attempting to estimate the scale of the problem, current estimates from the International Labour Organization (ILO) and Walk Free Foundation suggest there are over 40 million victims of modern slavery around the world.²

High-profile cases of modern slavery have drawn attention to the severe harm it causes and how widespread it is throughout global supply chains. In 2013, the Rana Plaza collapsed in Dhaka, Bangladesh, killing 1,134 people, including children. After the collapse, journalists reported that the workers had been in modern slavery conditions. Many had been forced to work overtime, with evidence of child labour and overcrowding in a building with an obviously compromised structure.

The United Nations (UN) Special Rapporteur has said that 430,000 workers are at risk of exploitation in Italy's agricultural sector, and around 100,000 workers may be suffering severe exploitation.³ Victims reported working up to 17 hour days, with no rest or leave, and undertaking hazardous work with direct exposure to pesticides. Workers often did not have valid visas and there was evidence of physical and sexual violence or threats of violence, withholding wages and documents, and threats against families.

There have been long running reports of modern slavery in Thailand's fishing sector. A worker survey undertaken by Issara Institute and the International Justice Mission suggested that about three quarters of the 140,000 migrant fishers work at least 16 hour days, for less than NZ\$10 a day.⁴ There have been accounts of people being sold as slaves between fishing boats, and of workers being forced to work through the use of severe violence (even murder), incarceration and sleep deprivation.⁵

Modern slavery and worker exploitation are also occurring in New Zealand, while New Zealanders are buying goods and services made by exploited persons here and overseas

We know that modern slavery and worker exploitation are also occurring in New Zealand, and that New Zealanders are contributing to modern slavery and worker exploitation, either knowingly or unknowingly.

The trafficking victims identified in New Zealand to date are unlikely to reflect the full number of people who are subject to modern slavery in New Zealand. The hidden nature of these crimes means vulnerable people are less likely, or able, to seek help or report their experience. Walk Free estimated that in 2016 around 3,000 people in New Zealand were in conditions of modern slavery. World Vision also estimates that an average New Zealand household spends approximately \$34 each week on industries whose products are implicated in modern slavery.⁶

In 2020, Joseph Matamata was sentenced to 11 years in jail for 10 charges of human trafficking and 13 charges of dealing in slaves in New Zealand. Matamata held a matai (family chief) title that commanded significant respect in Samoan culture. He used his respected position to convince younger persons to stay with him and brought in children through adoption pathways, before exploiting their labour for his own benefit. He used violence and the threat of deportation to prevent his victims from speaking out or leaving.

- 2 *Global estimates of modern slavery: forced labour and forced marriage*. International Labour Organization. Available at: www.ilo.org/wcmsp5/groups/public/@dgreports/@dcomm/documents/publication/wcms_575479.pdf
- 3 *Visit to Italy: Report of the UN Special Rapporteur on contemporary forms of slavery, including its causes and consequences*. Available at: reliefweb.int/sites/reliefweb.int/files/resources/G1922655.pdf
- 4 *Not in the Same Boat, Prevalence and patterns of labour abuse across Thailand's diverse fishing industry*, Issara Institute and International Justice Mission, 2016. Available at: www.ijm.org/sites/default/files/studies/IJM-Not-In-The-Same-Boat.pdf
- 5 *'Such brutality': tricked into slavery in the Thai fishing industry*. The Guardian. Available at: www.theguardian.com/world/2019/sep/21/such-brutality-tricked-into-slavery-in-the-thai-fishing-industry
- 6 See: www.worldvision.org.nz/causes/advocacy/modern-slavery-act/risky-goods

There are also examples of employment standards breaches in New Zealand that have occurred in situations where third parties (entities other than the direct employer) have contributed to the conditions behind the worker exploitation. Under current settings, those third parties are not liable for any harm they have caused or contributed to unless they were directly involved in the worker exploitation. Independent research conducted in 2019 as part of the Government's review into temporary migrant worker exploitation identified that "Throughout this research, migrant worker exploitation has been associated with smaller businesses and, in particular, those operating under sub-contracting and franchise arrangements where the main contractor or franchisee has little oversight of labour practices".⁷

There are some measures in place to address modern slavery and worker exploitation

The Government's initial focus under the Plan of Action has been on addressing migrant worker exploitation domestically. A package of legislative, policy and operational changes to reduce the exploitation of temporary migrant workers in New Zealand was announced in July 2020. The implementation of these changes is being supported by \$50 million in funding over four years.

The Government also announced in July 2020 that it would introduce a new legislative duty on third parties with significant influence or control over a New Zealand employer. The new duty would require the third party to take reasonable steps to prevent breaches of New Zealand's employment standards by the employer. The duty on third parties has been combined into the proposals in this document because the proposals are integrally linked. Proceeding with a single comprehensive proposal will help ensure that the outcomes are cohesive and effective.

New Zealand also uses our international engagements to address modern slavery and worker exploitation, such as through implementing the United Nations Guiding Principles on Business and Human Rights (UNGPs) through government contracts, including labour chapters in Free Trade Agreements that place obligations on parties in relation to the ILO's Fundamental Principles and Rights at Work, and by contributing to Overseas Development Initiatives to support work addressing slavery and exploitation.

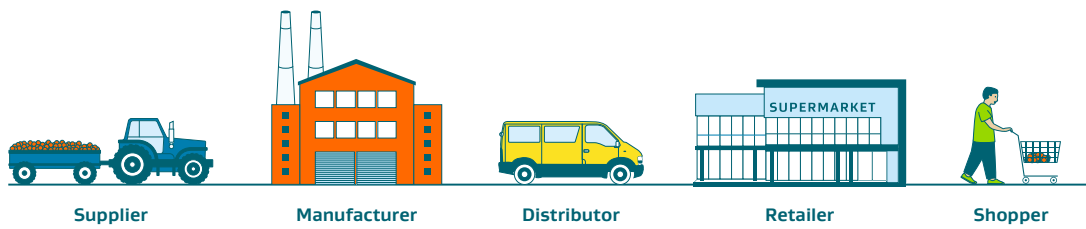
There are gaps in New Zealand's measures to address modern slavery and worker exploitation in supply chains and operations

New Zealand's focus has been on addressing direct exploitation primarily undertaken by employers. We do not regulate broader operations and supply chain practices that contribute to exploitation (except for certain types of government procurement). The current approach has not fixed the environment in which exploitation occurs both domestically and internationally.

Due to the hidden nature of these harms, it is not possible to provide an accurate assessment of how much harm these proposals will fix. However, as noted above, there is clear evidence that this exploitation is still occurring in New Zealand supply chains and operations. We want to hear more about the scale and nature of the harms through the consultation.

Modern slavery offending related to goods and services sold in New Zealand most often occurs outside of New Zealand. Enforcement is largely left to regulators overseas that often face significant challenges in identifying modern slavery and convicting offenders. While the Government works through international forums to share best practice and discuss how to combat modern slavery overseas and in New Zealand, we are reliant on New Zealand organisations voluntarily identifying and addressing modern slavery in their international operations and supply chains.

⁷ *Temporary migrant worker exploitation in New Zealand*. Francis Collins and Christina Stringer, July 2019. Available at: www.mbie.govt.nz/dmsdocument/7109-temporary-migrant-worker-exploitation-in-new-zealand



The problem can also be seen in New Zealand, including in domestically focused operations and supply chains. While New Zealand has more ability to control exploitation within our own borders, we are still seeing exploitation caused by operations and supply chain practices. Entities further up supply chains, including head offices, are setting conditions that make it difficult for some employers to continue a viable business without breaching employment standards.

New Zealand consumers increasingly want to know that the goods and services they consume are not the products of modern slavery or worker exploitation. The 2020 New Zealand Consumer Survey found that 50 per cent of consumers report their purchasing decisions are affected by knowing whether a business treats its works fairly either always or most of the time. This is an increase from 48 per cent in 2018 and 43 per cent in 2016. However, even highly motivated consumers can face barriers in identifying which businesses are doing the right thing, as few organisations publish information on practices across their operations and supply chains.

Some entities in New Zealand are taking action to address exploitation voluntarily, and international organisations are actively promoting best practices.⁸ However, independent reviews of transparency regimes put in place in Australia, the EU and the UK show us that most organisations are not putting in place effective measures to address modern slavery. We have no reason to expect that New Zealand organisations would do any better without stronger incentives and government action.

As production has become more globalised, supply chains have become increasingly complex and larger in size. This means that a collective global effort is needed, with a particular focus on global supply chains. Internationally, more of our trading partners are taking action by introducing legislation aimed at addressing exploitation in supply chains. Inaction by New Zealand may undermine this global effort. New legislation could help to make it easier for New Zealand businesses to trade across the world.

We have heard from businesses and the public that relying on voluntary business practices is not enough.⁹ While we expect that practices will improve over time as organisations, particularly businesses, respond to consumer demand, we do not anticipate that this will happen as quickly or effectively as is needed to address the problem. Organisations that are taking action may currently be undercut by others who are turning a blind eye or contributing to exploitation.

Taken as a whole, the evidence suggests that relying on the status quo and non-legislative options will not sufficiently address modern slavery and worker exploitation here or around the world. We are therefore proposing legislation that places responsibilities on, and encourages collaboration between, government, organisations and consumers.

8 See, for example, the United Nations Development Programme's Human Rights Due Diligence assessment tool at hrdd-assessment.org/about and Facilitation Guide at www.undp.org/publications/human-rights-due-diligence-training-facilitation-guide

9 See www.parliament.nz/en/pb/petitions/document/PET_111975/petition-of-trade-aid-and-world-vision-new-zealand-take

SUMMARY OF PROPOSED RESPONSIBILITIES

We are proposing new legislation to achieve freedom, fairness and dignity in the operations and supply chains of entities in New Zealand, and to meaningfully respond to modern slavery and worker exploitation both in New Zealand and internationally.

Modern slavery broadly reflects exploitative situations that a person cannot leave due to threats, violence, coercion, deception, and/or abuse of power. We are proposing that modern slavery be defined as including the legal concepts of forced labour, debt bondage, forced marriage, slavery and slavery like practices, and human trafficking.

Exploitation can be seen generally as behaviour that causes, or increases the risk of, material harm to the economic, social, physical or emotional well-being of a person. We are proposing that **worker exploitation** be defined as including non-minor breaches of New Zealand employment standards.¹⁰ This excludes minor and insignificant breaches that are not constant and easily remedied.

What will entities be required to do to address modern slavery and worker exploitation?

Entities will be required to identify and/or take action to address risks of modern slavery in their **international** operations and supply chains, and of modern slavery and worker exploitation in their **domestic** operations and supply chains.

Operations can refer to all activity undertaken by an entity to pursue its objectives and strategy. We are interpreting operations broadly as including all material relationships an entity has which are linked to its activities, including for example: investment and lending activity; material shareholdings; and direct and indirect contractual relationships (such as subcontracting and franchising relationships).

Supply chains are the network of organisations that work together to transform raw materials into finished goods and services for consumers. They include all activities, organisations, technology, information, resources and services involved in developing, providing, or commercialising a good or service into the final product for end consumers.

¹⁰ This refers to employment standards as defined in the *Employment Relations Act 2000*, and includes requirements such as providing written employment agreements, keeping wage and time records, providing no less than the minimum wage, and providing annual holiday entitlements. It does not include health and safety requirements, which are part of a separate legislative framework.

We are proposing that the international focus will be on modern slavery only, rather than exploitation more broadly. This is because we are not expecting entities to apply New Zealand employment standards across their international operations and supply chains, whereas modern slavery practices are internationally recognised as a fundamental breach of international law and human rights.

These obligations would not apply to consumers purchasing goods or services for personal consumption. For example, a homeowner contracting a painter to paint their house would not have any additional responsibilities. However, consumers play an important role in ensuring the overall effectiveness of the legislation and the proposals aim to help consumers identify whether their goods or services might have been produced using exploitative practices.

What types of entities will be affected and how?

We are proposing a graduated set of responsibilities under which larger entities will be required to do more. This will be based on an entity's annual revenue. Entities that have significant control over another New Zealand entity will also be required to do more.

The definition of size would be based on annual revenue as follows:

- **Small size entity** – below \$20 million (up to approx. 495,500 entities)
- **Medium size entity** – above \$20 million and below \$50 million (up to approx. 2,200 entities)
- **Large size entity** – above \$50 million (up to approx. 1,450 entities).

We are proposing that this legislation will create new responsibilities for **all types of entities**, including companies, sole traders, partnerships, state sector organisations, local government, charitable entities, trusts, incorporated societies and Māori trusts and incorporations.

The proposed responsibilities can be summarised at a high-level as follows:

TABLE 1. HIGH-LEVEL SUMMARY OF PROPOSED RESPONSIBILITIES

	Small <\$20m	Medium \$20-50m	Large >\$50m
1. Take reasonable and proportionate action if they become aware of: <ul style="list-style-type: none"> modern slavery in their international operations and supply chains, or modern slavery or worker exploitation in their domestic operations and supply chains. 	✓	✓	✓
2. Undertake due diligence to prevent, mitigate and remedy* modern slavery and worker exploitation by New Zealand entities where they are the parent or holding company or have significant contractual control.	✓	✓	✓
3. Disclose the steps they are taking to address: <ul style="list-style-type: none"> modern slavery in their international operations and supply chains, and modern slavery and worker exploitation in their domestic operations and supply chains. 		✓	✓
4. Undertake due diligence to prevent, mitigate and remedy* modern slavery in their international operations and supply chains, and modern slavery and worker exploitation in their domestic operations and supply chains.			✓

* We are seeking your views on whether entities should be required to remedy harms they have caused or contributed to. Please see the 'enforcement and remediation' section on page 74 of the discussion document.

† For large entities, due diligence responsibilities (Responsibility 4) would apply across their domestic operations and supply chains. This would include any New Zealand entity they have significant control or influence over.

Taking action where an entity becomes aware of modern slavery or worker exploitation could include, for example: reporting a case to the appropriate authority; working with the supplier to address the harm; changing suppliers; and/or any other action that may be appropriate under the circumstances.

Due diligence broadly refers to the process of identifying the risks of exploitation across an entity's operations and supply chains, taking steps to address any risks identified, and evaluating the steps taken.

Disclosure refers to the development and publication of a statement setting out the due diligence an entity is undertaking.

Any action taken to address modern slavery and worker exploitation should be reasonable and proportionate. What is ‘reasonable and proportionate’ could depend on a wide range of factors including the entity’s size and resources, the nature of the control or influence the entity has over its supplier, good practice in the entity’s sector, and the degree and type of harm that could result if no action is taken. Entities may need to initially focus their actions on addressing the most severe risks and impacts, before moving on to address remaining risks and impacts.

There are a wide range of potential measures that could be implemented to prevent and mitigate any identified risks as part of meeting due diligence responsibilities. The appropriate action will depend on the circumstances but could include, for example:

- regularly surveying suppliers to assess competence with protecting human rights and employment standards (e.g. requiring suppliers to submit an annual report which details the assurance systems they have in place, any issues that were identified, and actions that were taken to resolve them)
- commissioning third-party audits of suppliers’ compliance with human rights and employment standards (including using certification and assurance schemes developed by industry bodies or associations)
- establishing mechanisms for people in an entity’s operations or supply chains to report concerns directly to the entity (e.g. a hotline or whistleblowing channel)
- pre-approval assessments of potential supply chain partners to ensure that there is value alignment in terms of worker rights and worker wellbeing
- educating suppliers and workers in their supply chains about relevant rights and obligations in a language accessible to these groups.

Further examples are provided later in this discussion document in the sections on the proposed due diligence responsibilities, and in supporting case studies.

The proposals focus on different types of exploitation within New Zealand and internationally. As illustrated in **Table 2** below, domestically the focus will be on worker exploitation as well as modern slavery, whereas internationally the focus will only be on modern slavery.

TABLE 2. THE DOMESTIC AND INTERNATIONAL HARMS THAT ARE BEING ADDRESSED BY THE PROPOSALS

DOMESTIC	DOMESTIC AND INTERNATIONAL
<p>WORKER EXPLOITATION</p>	<p>MODERN SLAVERY</p>
<p>The proposals relate to the breaches of employment standards in NZ (but not breaches overseas).</p>	<p>The proposals relate to modern slavery in NZ and internationally.</p>
<p>This includes breaches of the minimum standards in the <i>Employment Relations Act 2000</i>, <i>Holidays Act 2003</i>, <i>Minimum Wages Act 1983</i>, <i>Wages Protection Act 1983</i>, and the <i>Equal Pay Act 1972</i>.</p>	<p>This includes the following crimes: forced labour, debt bondage, forced marriage, other slavery and slavery like practices, and human trafficking.</p>

How will the proposals be implemented?

We understand that entities are currently at different stages of progress in thinking about how modern slavery and worker exploitation manifests in their operations and supply chains, and how risks can be mitigated. While some entities have established due diligence processes, many others are only now beginning to think about how these may be adopted. We are seeking views on what support would be most helpful and whether a phase-in period for the legislation would be needed. Ultimately it is about working collaboratively across government, business and civil society to improve operational and supply chain practices to eliminate modern slavery and worker exploitation.

The proposals aim to ensure that the regulatory burden is proportionate and no greater than necessary to mitigate the risk. This means we have aligned our approach where possible with other jurisdictions and international best practice so that entities who are already taking effective action are not required to take additional measures unnecessarily.

The intention is to take an inclusive and positive approach to improvement and change, rather than a primarily punitive approach. Entities will be encouraged to look for modern slavery and worker exploitation, rather than seek to avoid it. Recognising the proposed legislation will mark the beginning of a journey for many entities, we are proposing that the regime be supported by an enforcement approach which would include a range of tools to ensure the obligations are met. This would include support for entities to improve operational and supply chain practices, as well as financial penalties.



Te Kāwanatanga o Aotearoa
New Zealand Government