



COVERSHEET

Minister	Hon Carmel Sepuloni	Portfolio	Workplace Relations and Safety
Title of Cabinet paper	<i>Proactive release of Cabinet paper: Modern Slavery and Worker Exploitation: Supply Chain Legislation</i>	Date to be published	27 September 2023

List of documents that have been proactively released

Date	Title	Author
June 2023	Modern Slavery and Worker Exploitation: Supply Chain Legislation	Office of the Minister for Workplace Relations and Safety
06 June 2023	Modern Slavery and Worker Exploitation: Supply Chain Legislation: CAB-23-MIN-0221 Minute	Cabinet Office
26 January 2023	Modern Slavery and Worker Exploitation Reform: Regulatory Impact Statement	MBIE

Information redacted

YES / NO

Any information redacted in this document is redacted in accordance with MBIE's policy on Proactive Release and is labelled with the reason for redaction. This may include information that would be redacted if this information was requested under Official Information Act 1982. Where this is the case, the reasons for withholding information are listed below. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

Some information has been withheld for the reason of confidential advice to Government.



Cabinet

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Modern Slavery and Worker Exploitation: Supply Chain Legislation

Portfolio **Workplace Relations and Safety**

On 6 June 2023, following reference from the Cabinet Economic Development Committee (DEV), Cabinet:

Background

- 1 **noted** that on 9 March 2022, DEV agreed to release the discussion document *A Legislative Response to Modern Slavery and Worker Exploitation: Towards Freedom, Fairness and Dignity in Operations and Supply Chains*, and invited the Minister for Workplace Relations and Safety to report back on the outcome of the consultation and the proposed legislative approach [DEV-22-MIN-0027];
- 2 **noted** that there was strong support in public consultation for the key proposed responsibilities, under which:
 - 2.1 all entities would be required to take action if they become aware of modern slavery or worker exploitation;
 - 2.2 medium and large entities (with more than \$20 million consolidated revenue) would be required to disclose the steps they are taking;
 - 2.3 large entities (with more than \$50 million consolidated revenue), and entities with contractual control over other New Zealand entities, would be required to undertake due diligence;
- 3 **noted** that a sequenced approach is proposed to address modern slavery and worker exploitation, whereby a disclosure responsibility is introduced ahead of the further development of stronger, more complex and novel responsibilities (such as the due diligence and 'take action' duties);

Proposed disclosure regime

- 4 **agreed**, subject to any drafting refinements by the Parliamentary Counsel Office, that:
- 4.1 operations refer to all activity undertaken by an entity to pursue its objectives and strategy. This includes all material relationships an entity has with other entities which are linked to its activities, including for example:
 - 4.1.1 investment and lending activity;
 - 4.1.2 material shareholdings;
 - 4.1.3 direct and indirect contractual relationships (such as subcontracting and franchising relationships);
 - 4.2 supply chains refer to the network of organisations that work together to transform raw materials into finished goods and services for consumers. This includes 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;
- 5 **agreed** that all eligible New Zealand entities, and entities carrying on business in New Zealand, with \$20 million or more in consolidated annual revenue over each of their last two financial years, be required to prepare an annual disclosure statement covering their financial year setting out:
- 5.1 the structure, operations and supply chains of the reporting entity;
 - 5.2 the risks in the operations and supply chains of the reporting entity, and any entities that the reporting entity owns or controls, relating to:
 - 5.2.1 modern slavery in the entity's international operations and supply chains;
 - 5.2.2 worker exploitation and modern slavery in the entity's domestic operations and supply chains;
 - 5.3 the actions taken by the reporting entity, and any entity that the reporting entity owns or controls, to prevent and mitigate and remediate those risks;
 - 5.4 how the reporting entity assesses the effectiveness of such actions;
 - 5.5 the process of consultation with any entities that the reporting entity owns or controls, or any other entity that is a party to the disclosure;
 - 5.6 any other matter the entity considers relevant;
- 6 **agreed** that the legislation will apply to all types of entities, and be binding on the Crown, subject to paragraph 28 below;
- 7 **agreed** that entities can prepare joint statements, such as across any subsidiaries, provided the information disclosed applies to all entities and any differences are clearly indicated;
- 8 **agreed** that a limited exception apply to government agencies involved in the national security and defence of New Zealand, and to relevant procurement and contracts with entities that supply those agencies, from the requirement to describe the entity's supply chains and operations;

- 9 **agreed** that the scope of the legislation will extend beyond an entity's direct suppliers, and will apply to all tiers of an entity's operations and supply chains;
- 10 **agreed** that disclosure statements must be approved by the relevant governing body of the entity;
- 11 **agreed** that entities would have a defence from litigation (such as defamation claims) where they have published information in good faith;
- 12 **agreed** that a new infringement offence and fee apply for failing to meet the disclosure obligations above, with a penalty of \$10,000;
- 13 **agreed** that a new offence and penalty of up to \$200,000 apply in cases where an entity provides false or misleading information;

Regulator and central digital register

- 14 **agreed** to establish a regulator and a central register for disclosure statements, and that the legislation be administered by the Ministry of Business, Innovation and Employment;
- 15 **agreed** that disclosure statements must be lodged no more than six months after the end of the entity's financial year;
- 16 **agreed** that the regulator have an immunity from litigation (such as against defamation or negligence claims), including vicarious liability for the Crown, unless they have acted otherwise than in good faith;
- 17 **agreed** that the regulator have powers to issue improvement notices to entities they believe on reasonable grounds are non-compliant with the legislation, with a penalty based on the relevant offence (in line with the penalties agreed in paragraphs 12 and 13 above);
- 18 **agreed** that the regulator have the ability to publish the names of entities that have been convicted of an offence (for providing false or misleading information) or that have been issued with infringement notices;
- 19 **agreed** that the regulator have powers to request information from entities necessary to enforce the legislative requirements;
- 20 **agreed** to amend the Tax Administration Act 1994 to allow for the disclosure of tax (GST) information from the Inland Revenue Department to the regulator, for the purpose of identifying which entities fall in scope of the legislation (by meeting the \$20 million revenue threshold for the relevant period of time);
- 21 **agreed** that the legislation provide for an information sharing arrangement with the New Zealand Customs Service relating to country of origin information, for the purpose of verifying the accuracy of information disclosed by an entity;
- 22 **agreed** that the legislation allow for information to be shared by the regulator to relevant enforcement agencies (such as the Labour Inspectorate or Immigration New Zealand) where the regulator becomes aware of potential offences while undertaking an investigation, for the purpose of alerting those agencies to potential criminal offending or breaches of New Zealand law;

Implementation and financial implications

23 [REDACTED] Confidential advice to Government

24 [REDACTED] Confidential advice to Government

Next steps

- 25 **noted** that the above proposals will be given effect through the Modern Slavery and Worker Exploitation in Supply Chains Bill, for which a category five priority is being sought on the 2023 Legislation Programme (drafting instructions to be provided to the Parliamentary Counsel Office before the 2023 general election);
- 26 **noted** that there are strong public expectations for the legislation to be developed, and that issuing drafting instructions will show clear progress towards meeting those expectations;
- 27 **invited** the Minister for Workplace Relations and Safety to issue drafting instructions to the Parliamentary Counsel Office to give effect to the above paragraphs;
- 28 **authorised** the Minister for Workplace Relations and Safety to make further decisions that do not depart significantly from the agreed policy (including in relation to the potential narrowing of the entities captured and disclosure requirements to maintain the privacy of individuals as protected by the Privacy Act 2020, and the potential for enabling voluntary disclosure statements);
- 29 **agreed** that broader reform to address modern slavery and worker exploitation within the supply chains and operations of New Zealand entities remains a priority for the government;
- 30 **noted** that further analysis will be undertaken on legislative options to establish stronger measures to address modern slavery and worker exploitation, including the potential for new ‘take action’ and ‘due diligence’ responsibilities and an independent Commissioner as proposed in public consultation;
- 31 **invited** the Minister for Workplace Relations and Safety to report back to DEV on the progress of the reform.

Rachel Hayward
Secretary of the Cabinet