



## COVERSHEET

<b>Minister</b>	Hon Michael Wood	<b>Portfolio</b>	Workplace Relations and Safety
<b>Title of Cabinet paper</b>	Addressing modern slavery and worker exploitation in supply chains: agreement to release public consultation document	<b>Date to be published</b>	14 April 2022

<b>List of documents that have been proactively released</b>		
<b>Date</b>	<b>Title</b>	<b>Author</b>
9 March 2022	<i>Addressing modern slavery and worker exploitation in supply chains: agreement to release public consultation document</i>	<i>Office of the Minister for Workplace Relations and Safety</i>
9 March 2022	<i>Cabinet Economic Development Committee Minute of Decision: Addressing modern slavery and worker exploitation in supply chains: agreement to release public consultation document</i>	<i>Cabinet Office</i>
4 March 2021	<i>Addressing modern slavery in international supply chains</i>	<i>MBIE</i>
4 August 2021	<i>Addressing Modern Slavery in Supply Chains: High-Level Legislative Options</i>	<i>MBIE</i>
1 October 2021	<i>Addressing Modern Slavery in Supply Chains: Further Decisions for Public Consultation</i>	<i>MBIE</i>
1 October 2021	<i>Addressing Modern Slavery in Supply Chains: Further Decisions for Public Consultation Annex Five: Literature review on the impact and effectiveness of modern slavery legislation</i>	<i>MBIE</i>
27 October 2021	<i>Further advice on the relationship between the duty to prevent employment standards breaches and modern slavery legislation</i>	<i>MBIE</i>
20 December 2021	<i>Modern slavery and worker exploitation draft discussion document and Cabinet paper</i>	<i>MBIE</i>

**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 reasons of privacy of natural persons, free and frank expression of opinions, international relations, and confidential advice to government.

**[Restricted]**

Office of the Minister for Workplace Relations and Safety  
Cabinet Economic Development Committee

**Addressing modern slavery and worker exploitation in supply chains: agreement to release public consultation document**

**Proposal**

- 1 This paper seeks agreement to release a consultation document on a proposed legislative approach to ensure that the supply chains of New Zealand entities are free of modern slavery and worker exploitation. The consultation document entitled *A legislative response to modern slavery and worker exploitation: towards freedom, fairness and dignity in operations and supply chains* is attached as Appendix One.

**Relation to government priorities**

- 2 This paper relates to the following Labour Party 2020 election manifesto commitment:

“Labour will continue our 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.”

**Executive Summary**

- 3 There is growing pressure from consumers, businesses, civil society and other international partners for New Zealand to do more to address modern slavery. In 2021, 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.
- 4 I am seeking Cabinet’s agreement to release a public consultation document on a proposed approach to modern slavery legislation for New Zealand. Modern slavery goes against the values of New Zealand as a country. It is important that we take collective action.
- 5 Modern slavery and worker exploitation can amount to fundamental breaches of human rights and are worldwide problems that, whether they occur here or overseas, have direct and indirect negative implications for us all. Victims can face physical and emotional harm that can last for the rest of their lives. The use of modern slavery and worker exploitation in supply chains creates an environment based on unfair competition and penalises those companies doing the right thing.
- 6 The efforts undertaken to date here have not been effective at reducing modern slavery and worker exploitation. While New Zealand has domestic laws that

make it illegal to engage directly in modern slavery, we do not have legislation requiring entities to address modern slavery or worker exploitation in wider supply chains or operations. Many of our international partners have introduced modern slavery legislation in recent years, and we risk falling behind. We have already been downgraded to tier two by the United States State Department in their annual Trafficking in Person report because of their view that New Zealand has not prioritised effective action in this area.

- 7 In my view, the case for legislation to address modern slavery and worker exploitation in supply chains and operations is strong. Through the legislation, and by continuing to work with business, unions and civil society, we have an opportunity to make lasting changes which will help ensure people who work in supply chains or operations associated with New Zealand are free and treated fairly and with dignity.
- 8 The consultation document proposes a graduated approach where all entities would have a responsibility to take action if modern slavery or worker exploitation is found. Regulated entities would include companies, state sector organisations, local government, charitable entities and incorporated societies. Individual consumers and homeowners would not be covered by the legislation but would play an important role nonetheless to support the overall culture change.
- 9 The proposals have been developed in close consultation with a leadership advisory group chaired by Rob Fyfe and comprised of representatives from business, unions, civil society and academia. Officials have also tested the proposals with selected business representatives.
- 10 The nature and type of further obligations would depend on the size of the entity, and on whether the exploitation is in New Zealand or overseas. Larger entities, and those with more control and influence, would have more responsibilities than small and medium entities. Those entities would also have responsibilities to prevent worker exploitation, including breaches of New Zealand employment standards, in relation to their domestic supply chains and operations.
- 11 The primary objective of the proposals 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:
  - 11.1 enhance New Zealand's international reputation as a country that supports human rights and transparency
  - 11.2 strengthen New Zealand's international brand and make it easier for our businesses to continue to trade with the world
  - 11.3 support consumers to make more informed choices in relation to modern slavery and worker exploitation risks associated with goods and services

- 11.4 drive culture and behaviour changes in entities which lead to more responsible and sustainable practices; and
  - 11.5 level the playing field for entities which act responsibly across their operations and supply chains.
- 12 These objectives need to be balanced against the need to ensure that the regulatory burden is proportionate to, and no greater than necessary to, mitigate the risk. I am conscious that some entities that are not already managing risks in their supply chains may see this legislation as adding a further compliance burden in an already difficult operating environment with COVID-19.
- 13 On the other hand, I have heard from a wide range of businesses that are already taking steps to address modern slavery and are supportive of modern slavery legislation. The legislation would strengthen New Zealand's international brand and make it easier for our business to continue to trade with the world.
- 14 The consultation will seek public feedback on the approach, will help identify the compliance costs and any unintended consequences, and identify how we can support entities to make positive change before we commit to final decisions. Ultimately the legislation will only achieve its aims if it leads to lasting culture change rather than being seen as a tick box exercise and compliance burden.

## Confidential advice to Government

- 16 I expect to report back to Cabinet seeking final policy decisions by the end of 2022. This report back would include more detailed costing estimates.

### Background

- 17 On 14 December 2020, Cabinet agreed to a new all-of-government Plan of Action against Forced Labour, People Trafficking and Slavery (the Plan of Action) [CAB-20-MIN-0524]. The Plan of Action provides a high-level framework for the actions that agencies will take to combat these practices up to 2025. The Plan of Action includes a commitment to explore supply chain legislation to help eliminate practices of modern slavery. New Zealand also committed to investigate supply chain legislation in response to our 2019 Universal Periodic Review.
- 18 There is also growing pressure from consumers, businesses, civil society and other international partners to do more to address modern slavery. In 2021, I

received an open letter signed by 116 businesses and a public petition signed by more than 37,000 people calling on the Government to implement modern slavery legislation. In addition, I have heard directly from a wide range of businesses who are supportive of modern slavery legislation.

- 19 In March 2020, as part of the review into temporary migrant worker exploitation, Cabinet agreed to introduce a new duty requiring third parties with significant influence or control over a New Zealand employer to take reasonable steps to prevent breaches of New Zealand's employment standards (the duty to prevent) [CAB-18-MIN-0434].
- 20 Once in effect, the duty to prevent would create obligations for some New Zealand entities to undertake due diligence in their domestic supply chains and operations. These obligations overlap with the scope of the work underway to address modern slavery in supply chains. I am now combining the two sets of proposals to ensure that they are cohesive and to reduce the potential compliance burden on entities.
- 21 The work to date has been undertaken with a broad engagement and consensus approach. Officials from the Ministry of Business, Innovation and Employment (MBIE) have been working in close consultation with a modern slavery leadership advisory group to develop initial proposals for public consultation. The leadership advisory group is chaired by Rob Fyfe and includes representatives from business, unions, civil society, and academia.
- 22 There is also work going on across government to look at wider supply chain risks and resilience, on developing a national action plan on business and human rights, and on climate and environmental risk management. Officials will ensure that this work is joined up as it progresses.

### **New Zealand is committed to eliminating modern slavery and worker exploitation here and around the world**

#### *Worker exploitation and modern slavery take many forms*

- 23 Worker exploitation and modern slavery practices take many forms. They can range from breaches of minimum employment standards to more controlling and coercive criminal behaviour. 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.
- 24 While the term modern slavery is imprecise, many of the forms of exploitation within its umbrella are well-defined in New Zealand and international law.

#### *Modern slavery and worker exploitation are inconsistent with New Zealand values*

- 25 Modern slavery, whether it occurs here or overseas, has direct and indirect implications for us all. Modern slavery includes the denial of economic agency, and a victim of slavery can face physical and emotional harm that can last for the rest of their life. Modern slavery impacts productivity across global supply chains, with domestic and international economic implications.

- 26 The use of modern slavery in supply chains creates an environment based on unfair competition, in which exploitative practices can be leveraged to get ahead. Put simply modern slavery goes against the values of New Zealand as a country.

*Modern slavery and worker exploitation are significant worldwide problems*

- 27 Current estimates from the International Labour Organization and Walk Free Foundation suggest there are over 40 million victims of modern slavery around the world (comprising 25 million victims of forced labour, including sexual exploitation, and 15 million victims of forced marriage). Women and girls accounted for 71 per cent of modern slavery victims. It is estimated that one in four victims are children.
- 28 New Zealand is not immune to modern slavery and worker exploitation. In July 2020, a New Zealand man was sentenced to 11 years in jail after being found guilty of 10 charges of trafficking people and 13 charges of dealing in slaves.<sup>1</sup> Four of these victims were minors at the time they were trafficked and enslaved and had been brought to New Zealand through international adoptions. While most of the 51 trafficking victims identified in New Zealand to date have been migrant men who were trafficked for the purpose of labour exploitation, there have also been women and child victims, including one case of sexual slavery involving a child.
- 29 However, these cases are unlikely to reflect the full spectrum of people who are 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. Walk Free estimated that in 2016 around 3,000 people in New Zealand were in conditions of modern slavery. We know from research conducted as part of the review into temporary migrant worker exploitation that many more are likely to be facing exploitative working conditions.
- 30 The actions of consumers in New Zealand could be contributing to slavery happening elsewhere in the world. A recent study by World Vision estimates that an average New Zealand household spends approximately \$34 each week on industries whose products are implicated in modern slavery.<sup>2</sup>
- 31 There is also evidence of exploitative conditions in some industries in New Zealand, in some cases this is exacerbated by business models such as franchising or subcontracting. For example, the Labour Inspectorate investigation of the Ultra-Fast Broadband (UFB) rollout supply chain found potential employment standards breaches in 73 out of 75 employers initially investigated.

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<sup>1</sup> The Queen v Joseph Auga Matamata CRI-2018-020-003953 [2020] NZHC 1829

<sup>2</sup> Risky Goods: New Zealand Imports, World Vision, 2021.  
<https://www.worldvision.org.nz/getmedia/6904e490-14b7-4fbf-b11e-308ddf99c44a/WVNZ-research-risky-goods-nz-imports/>

*Taking action will take collective global effort*

- 32 Modern slavery is a significant global problem and the efforts undertaken to date have not effectively addressed the problem. As the world becomes more globalised, the opportunities for our citizens and the economy also increases. However, so do the risks; and the decisions we make domestically have consequences that are global.
- 33 Supply chains have become more complex and larger in size over the last few decades, as production has become more globalised. These developments, together with sometimes weaker responses in other nations, mean that tackling modern slavery will take a collective global effort, with a particular focus on global supply chains at the national level.
- 34 A number of countries have introduced, or are in the process of introducing, legislation to address modern slavery in supply chains and operations. So far, the approaches taken have focused on:
- 34.1 transparency obligations - to require entities to publicly report on what they are doing to address modern slavery (United Kingdom, Australia and California),
  - 34.2 due diligence obligations - to take active steps to identify and manage modern slavery risks (France, Germany, European Union), or
  - 34.3 banning the import of goods produced by modern slavery (USA and Canada).
- 35 If we do not act, we risk being seen as falling behind and not supporting collective global efforts to stamp out these practices. We have already been downgraded to tier two by the United States State Department in their annual Trafficking in Person report because of their view that New Zealand has not prioritised effective action in this area.

**There are some measures in place in New Zealand to address modern slavery**

- 36 New Zealand's framework for addressing exploitation focuses on domestic enforcement and multilateral engagement. In the domestic context, a range of offences exist in employment law, the Immigration Act 2009 and the Crimes Act 1961 that address modern slavery and exploitation. In some cases, these allow a person to be charged for offending which takes place outside New Zealand. In July 2020, we announced a set of policy and operational changes and \$50 million of new funding to address temporary migrant worker exploitation.
- 37 New Zealand also uses our international engagements to support global efforts to address modern slavery. The Government Procurement Rules were updated in 2019 to require agencies to consider, and incorporate where appropriate, broader outcomes, including worker conditions when purchasing goods, services or works.

## **There is a gap in New Zealand’s measures regarding modern slavery in international supply chains**

- 38 Some New Zealand entities are taking actions to address modern slavery voluntarily, and international organisations are promoting best practices. However, there are limited circumstances in which entities could be held liable in New Zealand for modern slavery practices that they directly or indirectly benefit from. There is also no comprehensive effort to support entities to improve their practices.
- 39 While there is growing support from governments, business and consumers to put measures in place to address modern slavery, the conditions and incentives are not sufficient for all entities to do so voluntarily. There is an increasing societal expectation within New Zealand for good supply chain practices. In 2020, 50 per cent of adult consumers reported that knowing a business treats its workers fairly ‘always/most of the time’ affects their decision on where to purchase (up from 43% in 2016 and 48% in 2018).<sup>3</sup>
- 40 While more consumers want to buy from responsible businesses, it is not always easy for a consumer to determine which businesses have put effective measures in place. Many businesses are making claims about their practices. However, most consumers will not be in a position to verify those claims.

## **The consultation document proposes a uniquely New Zealand approach to modern slavery legislation**

- 41 Officials have considered a wide range of legislative options. The proposed approach focuses on due diligence and disclosure responsibilities that would apply to as wide a range of entities as feasible.
- 42 For the purposes of the consultation document, due diligence broadly refers to the process of identifying the risks of exploitation across an entity’s operations and supply chains, taking steps to mitigate any risks identified, and evaluating the steps taken. Disclosure is used to refer to the development and publication of a statement setting out the due diligence an entity is undertaking.
- 43 The consultation document focuses on specific proposals relating to what obligations will apply and who will be covered by the legislation. Questions on how the legislation will work (support mechanisms and enforcement, including offences and penalties) are generally more open-ended and exploratory in nature.

### *A graduated approach to the legislation is proposed*

- 44 The proposed approach would create new responsibilities for all types of entities, including companies, state sector organisations, local government, charitable entities and incorporated societies. Individual consumers would not be directly regulated. However, they play an important role in ensuring the overall effectiveness of the legislation and would be encouraged to make

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<sup>3</sup> Ministry of Business, Innovation and Employment. *New Zealand Consumer Survey 2020*.

informed decisions in relation to modern slavery, as part of their consumption decisions.

45 Different responsibilities would apply based on the size of the entity and the nature of their relationship with their suppliers and operations. Every regulated entity would be required to take action if they identify modern slavery or worker exploitation in their supply chains or wider business operations. Entities would also be required to undertake due diligence in relation to a New Zealand employer where they:

45.1 are the employer’s parent or holding company; or

45.2 have significant contractual control, whether direct or indirect, over the employer’s business affairs (could include control over corporate, operational or employment matters).

46 Medium sized entities, defined as having annual revenue between \$20 million and \$50 million (approximately 2,200 enterprises<sup>4</sup>), would be required to report annually on the steps they are taking to identify and manage modern slavery risks. Large entities, defined as having annual revenue above \$50 million (approximately 1,450 entities), would be required to undertake due diligence to identify and manage risks and to report on that due diligence.

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

**Table 1. High-level summary of proposed responsibilities**

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

<sup>4</sup> There were around 500,000 enterprises included in the StatsNZ 2020 Annual Enterprise Survey.

4. Undertake due diligence to prevent, mitigate and remedy modern slavery in their <b>international</b> operations and supply chains and exploitation in their <b>domestic</b> operations and supply chains.*			✓
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*\* In practice this is likely to cover a range of business models, for example, franchise type, arrangements (i.e. retail liquor stores) and some sub-contracting supply chains (for example the ultrafast broadband roll out) where there is a high-level of control exerted on sub-contractors (including in relation to prices, suppliers, materials, employment matters).*

*\*\* For large entities, due diligence responsibilities would apply across their full domestic operations and supply chains.*

48 The proposed approach to due diligence and disclosure:

- 48.1 is consistent with what other countries are doing and is supported by the international evidence on impacts. The evidence from initial evaluations of other countries approaches suggests that disclosure-based regimes on their own have not been effective at shifting business behaviour.<sup>5</sup> Due diligence on the other hand is a more direct mechanism that is more likely to drive culture changes among regulated entities.
- 48.2 is best suited to New Zealand’s circumstances given the size and capability of New Zealand entities. The vast majority of New Zealand entities are small or medium, and we have few large multinationals that can drive behaviour change through their domestic supply chains.
- 48.3 balances the increased compliance obligations on entities whilst best achieving the objectives of this work. There are, for example, likely to be different views on where the thresholds should kick in. Some NGOs are likely to want lower thresholds. These differing views will be canvassed during the consultation.

*Regulated entities would have different standards to meet for domestic and international supply chains*

49 The proposed approach would require regulated entities to identify and take action to address risks of:

- 49.1 modern slavery in their international operations and supply chains. Modern slavery includes forced labour, debt bondage, forced marriage, slavery and slavery like practices, and human trafficking, and
- 49.2 exploitation in their domestic operations and supply chains. This includes breaches of New Zealand employment standards as well as modern slavery practices (as described above). Minor and insignificant breaches of employment standards would not be included.

50 This differentiation is consistent with the approach taken with the duty to take reasonable steps to prevent employment standards breaches that Cabinet has already agreed to in the migrant exploitation review. While we cannot expect

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<sup>5</sup> In February 2022, four Australian universities, the Human Rights Law Centre, Uniting Church Australia, and Baptist World Aid published a review the modern slavery statements of 102 companies. It found that more than half failed to identify obvious modern slavery risks and only a quarter were undertaking due diligence.

entities to ensure that New Zealand employment standards are met across their international operations and supply chains it is reasonable to expect that they take steps to ensure that their domestic suppliers are compliant with New Zealand minimum employment standards.

*The approach is built on collaboration with business, government and civil society*

- 51 The proposed approach acknowledges that the legislation itself is only one part of the picture and that it will need to be accompanied by extensive promotion, guidance and support for entities. We need to build a collective understanding of the issue and a long-lasting culture change which encourages collaboration between businesses and with consumers and civil society on this issue.
- 52 MBIE is seeking feedback on the support and guidance that will be needed alongside the legislation. This includes whether there is a need for an independent commissioner or similar, and the approaches to enforcement.

**The public consultation will provide more information about the benefits and wider impacts**

- 53 I expect that the legislation and supporting mechanisms would have the following benefits:
- 53.1 reduce modern slavery and worker exploitation in New Zealand and elsewhere, helping to build practices based on fairness and respect
  - 53.2 enhance New Zealand's international reputation as a country that supports human rights and transparency
  - 53.3 strengthen New Zealand's international brand and make it easier for our businesses to continue to trade with the world
  - 53.4 support consumers to make more informed choices in relation to modern slavery and worker exploitation risks associated with goods and services
  - 53.5 drive culture and behaviour changes in entities which lead to more responsible and sustainable practices
  - 53.6 level the playing field for entities which act responsibly across their operations and supply chains.
- 54 I expect that the consultation will provide valuable insights and information on the benefits and costs of the proposed approach and what would work in a New Zealand context. This will help build on our existing knowledge base which is based on the limited international evidence on the effectiveness of different modern slavery approaches.
- 55 Some businesses, that are not already managing risks in their supply chains, may see this legislation as adding a further compliance burden in an already difficult operating environment with COVID-19. It will be important that the legislation strikes the right balance between addressing supply chains risks while minimising the impacts on businesses and other regulated entities.

- 56 It may also be challenging for some sectors to avoid modern slavery. For example, where the market for a particular critical good or service is dominated by providers with links to modern slavery. This could result in significant costs for some entities. It may also affect the delivery of other government objectives and overlap with policy work underway, such as on resilience in supply chains **International relations** It may also increase government procurement costs, for example by narrowing supplier options.
- 57 I expect that the proposals will be consistent with our responsibilities and the shared values outlined in Te Tiriti o Waitangi. Officials will ensure the public consultation includes targeted engagement with Māori business and wider iwi groups to better understand the impacts on Māori. Officials will also seek to reach migrant and other affected communities through the consultation.
- 58 The consultation will ensure that we get public buy in to the approach and will help identify any unintended consequences or disproportionate impacts, including on population groups or sectors before we commit to final decisions.

### **Te Tiriti o Waitangi Analysis**

- 59 I expect that the proposals will be consistent with our responsibilities and the shared values outlined in Te Tiriti o Waitangi. Kaupapa Māori values such as kaitiakitanga and manaakitanga are relevant to the proposals.
- 60 The proposed legislation may have positive impacts for some Māori individuals and businesses. Māori are disproportionately represented in lower-paid and precarious employment. They may therefore be more vulnerable to the exploitative employment practices which these proposals seek to address. Māori businesses may also be more likely to be using ethical and sustainable business models which would be supported by these proposals.
- 61 Officials will ensure the public consultation includes targeted engagement with Māori business and wider iwi groups to better understand the impacts on Māori. This includes how kaupapa Māori could help inform the design of the proposals, and to understand whether there are any potential disproportionate impacts on Māori. Officials will also seek to reach migrant and other affected communities through the consultation.

### **Implementation timelines**

- 62 Public consultation is expected to run for two months in April and May 2022. I expect to be able to report back to Cabinet seeking final policy decisions by the end of 2022. The report back would include advice on:
- 62.1 the feedback from public consultation
  - 62.2 the proposed approach to modern slavery legislation, and
  - 62.3 the benefits and costs (including detailed cost estimates or wider trade-offs with other government objectives) of introducing modern slavery legislation.

63 If Cabinet agrees to the policy decisions, I intend to introduce the associated bill in 2023, within this parliamentary term. The legislation could be enacted in 2024. Further advice would be provided on the time needed to implement the legislation once it is enacted, and whether some elements should be phased in over time.

### Financial Implications

64 I expect that the proposals outlined in the consultation document will have financial implications if they are agreed by Cabinet in the future. These costs could include:

- 64.1 enforcement activities undertaken by a new or existing regulator to ensure compliance with any new obligations
- 64.2 provision of support for regulated parties, including education and information
- 64.3 promotion and communication of the legislation
- 64.4 implementation of a public register for modern slavery disclosure statements, and
- 64.5 funding an independent commissioner, if agreed.

Confidential advice to Government

67 The final costs would depend on which of the proposals Cabinet agrees to (i.e. who is regulated and what they would be required to do). The implementation of the proposals could also be phased in over time which would spread the costs out over a longer period. More work will also be needed to establish who the regulator would be and what the compliance and enforcement approach would be. Confidential advice to Government

# Confidential advice to Government

## Legislative Implications

- 69 There are no direct legislative implications for this paper. However, the proposals that are the subject of the public consultation will have legislative implications if they are agreed by Cabinet in the future. Confidential advice to Government

## Impact Analysis

### *Regulatory Impact Statement*

- 70 The proposals outlined in the public discussion document would, if they were to be recommended to Cabinet, require regulatory impact analysis. The Regulatory Impact Analysis panel at the Ministry of Business, Innovation and Employment has reviewed and confirmed that the discussion document **Partially Meets** the requirements and can substitute for an interim Regulatory Impact Statement. It will lead to effective consultation and support the eventual development of a quality Regulatory Impact Statement.

### *Climate Implications of Policy Assessment*

- 71 A Climate Implications of Policy Assessment (CIPA) is not required for this paper as the proposals would not have a significant impact on climate change.

## Population Implications

- 72 There are no direct implications on population groups arising from this Cabinet paper. However, if the approach proposed in the consultation document is agreed by Cabinet, we would expect that it would have positive impacts on vulnerable workers in New Zealand and around the world by reducing worker exploitation and modern slavery. This could have a disproportionately positive impact on population groups that are more likely to be in lower-paid and precarious employment, including Māori, women, youth and children, Pacific peoples, migrants, former refugees and members from ethnic communities, including migrants on temporary work visas. The consultation and associated public engagement will help us better understand these impacts.
- 73 I also note that because these proposals focus on regulating commercial arrangements in supply chains and operations, they are less likely to address issues such as forced marriage and sexual violence that are more likely to

effect women and girls. The consultation will help us to understand the interaction between forced marriage, sexual exploitation and forced labour and the extent to which these proposals will affect women and girls. The Plan of Action against Forced Labour, People Trafficking and Slavery also sets out our wider set of actions to address these associated issues, which predominantly affect women.

## Human Rights

- 74 The proposals that are outlined in the public consultation document would have a positive impact on the maintenance of human rights and labour rights. The proposals would require entities to take steps to ensure that all people affected by their supply chains and operations in New Zealand and elsewhere, are treated fairly and are free from exploitation and slavery. New Zealand has committed to exploring modern slavery legislation in international fora, including in our last Universal Periodic Review before the UN Human Rights Council.
- 75 Measures to eliminate modern slavery in supply chains would contribute to the more effective implementation of the rights and freedoms contained in International Labour Organisation (ILO) Conventions and human rights treaties to which New Zealand is a party, including the ILO's Forced Labour Convention, 1930 (No. 29) and associated protocol and the UN Slavery Convention, and the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery.
- 76 New Zealand has also ratified the UN Convention on the Right of Children (UNCRC), Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography (OPSC) and therefore has a responsibility to protect and safeguard children from all forms of slavery, exploitation and trafficking.

## Consultation

- 77 The following agencies have been consulted during the development of the policy proposals: the Ministries of Foreign Affairs and Trade, Justice, Social Development, Primary Industries, Transport, Environment, Internal Affairs, Health; the Ministries for Women, Pacific Peoples and Ethnic Communities; The Treasury; The Department of the Prime Minister and Cabinet; Te Puni Kōkiri; the New Zealand Police; Oranga Tamariki - The Ministry for Children, WorksafeNZ; the Public Service Commission; the New Zealand Customs Service; the Department of Corrections; New Zealand Defence Force; Waka Kotahi; Kāinga Ora; and New Zealand Trade and Enterprise.
- 78 The policy development process is being undertaken in consultation with a modern slavery leadership advisory group. The group, convened by MBIE, includes representatives from business, unions, NGOs and academics.

## Communications

- 79 I expect to announce the public consultation on 8 April and for the consultation to be open for two months. The announcement is likely to be made alongside the next Modern Slavery Leadership Advisory Group meeting. I will consult with

relevant Ministers, on the press release and other key communications materials prior to the announcement.

### **Proactive Release**

- 80 I propose to release this Cabinet paper and key policy papers proactively in line with normal Cabinet guidelines.

### **Recommendations**

The Minister for Workplace Relations and Safety recommends that the Committee:

- 1 note this paper relates to the Labour Party 2020 election manifesto commitment to explore the implementation of modern slavery legislation in New Zealand to eliminate exploitation in supply chains;
- 2 note that modern slavery is a worldwide problem that, whether it occurs in New Zealand or overseas, is inconsistent with New Zealand's values;
- 3 note that while New Zealand has domestic laws that make it illegal to engage in modern slavery, we do not have legislation to address it in wider supply chains and operations;
- 4 note that a number of other countries have legislation in place to address modern slavery in supply chains and we risk being seen as falling behind and not supporting collective global efforts to stamp out these practices;
- 5 note that the Ministry of Business, Innovation and Employment has developed a consultation document on a proposed approach to modern slavery legislation in consultation with a leadership advisory group, chaired by Rob Fyfe and made up of business, unions and civil society;
- 6 note that the proposed legislation and supporting mechanisms have the following objectives:
  - 6.1 reduce modern slavery and worker exploitation in New Zealand and elsewhere, helping to build practices based on fairness and respect;
  - 6.2 enhance New Zealand's international reputation as a country that supports human rights and transparency;
  - 6.3 strengthen New Zealand's international brand and make it easier for our businesses to continue to trade with the world;
  - 6.4 support consumers to make more informed choices in relation to modern slavery and worker exploitation risks associated with good and services;
  - 6.5 drive culture and behaviour changes in entities which lead to more responsible and sustainable practices;

- 6.6 level the playing field for entities which act responsibly across their operations and supply chains;
- 7 note that there is a risk that some entities that are not already managing risks in their supply chains may see this legislation as adding further compliance costs;
- 8 agree to release the attached discussion document on modern slavery legislation for New Zealand, subject to any minor editorial changes;

## Confidential advice to Government

- 10 invite the Minister for Workplace Relations and Safety to report back to Cabinet by the end of 2022 on:
  - 10.1 the feedback from public consultation;
  - 10.2 the approach to modern slavery legislation; and
  - 10.3 the benefits and costs (including detailed cost estimates) of introducing modern slavery legislation.

Authorised for lodgement

Hon Michael Wood  
Minister for Workplace Relations and Safety