



**PSA Submission on the
consultation on A Legislative
Response to Modern Slavery
and Worker Exploitation**

**to the Ministry for Business,
Innovation and Employment**

June 2022

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About the PSA

The New Zealand Public Service Association Te Pūkenga Here Tikanga Mahi (the PSA) is the largest trade union in New Zealand with over 81,000 members. We are a democratic and bicultural organisation representing people working in the Public Service including for departments, Crown agents and other crown entities including DHBs, and state-owned enterprises; local authorities; tertiary education institutions; and non-governmental organisations working in the health, social services and community sectors.

For over 109 years, people have joined the PSA to negotiate their terms of employment collectively, to have a voice within their workplace and to have an independent public voice on the quality of public and community services and how they're delivered. Our purpose as a union is to build organisation to influence the political, economic, social and industrial environment in the interests of PSA members – creating a better working life for our members.

We are committed to advancing the Tiriti o Waitangi of partnership, protection and participation through our work. Te Rūnanga o Ngā Toa Āwhina is the Māori arm of the PSA membership. The PSA is affiliated to Te Kauae Kaimahi the New Zealand Council of Trade Unions (CTU), Public Services International and UniGlobal.

This submission

This submission sets out the PSA's overall response to the consultation and warmly endorses and recommends the submission of PSA Pasefika, the network for Pasefika PSA members and that of the PSA Women's Network. The PSA supports the CTU's submission.

PSA response to the consultation

The PSA welcomes this consultation and strongly supports the introduction of legislation with the purpose of ensuring that workers in New Zealand's supply chains, both here and overseas, are treated fairly and with dignity.

The current measures in place, while useful steps, are not enough. The elimination of modern slavery (described by this consultation as forced labour, debt bondage, forced marriage, other slavery and slavery like practices, and human trafficking) must be a priority and it is appropriate to use legislation to achieve this.

The definition of modern slavery

We support the definitions of modern slavery and exploitation proposed by the consultation, with the inclusion of non-minor breaches of New Zealand employment standards.

Approach of the legislation

We do support legislation that requires all entities of any type or size to undertake due diligence to prevent and mitigate modern slavery and worker exploitation in domestic operations and supply chains for New Zealand entities they have significant control or influence over. However, in our view this approach is an unduly moderate one. Our preference is for legislation that requires more proactive action to stop exploitation through prevention, protection and prosecution.

When first entering into contracts along their supply chain, entities should make the award of a contract conditional on respect for fundamental principles of rights. They should also make available through their annual reporting a description of their due diligence process, and where modern slavery is found through this process they should provide a description of this and of their steps to address it.

Where entities become aware that modern slavery is present, they should be required to notify the regulator and take reasonable and proportionate steps to address this including remediating any affected workers.

Attention must also be given to what legislative and other measures are needed to better support victims to speak up, in particular those working illegally. While the strategy addresses abusive recruitment practices, dedicated actions are also needed to tackle artificial business arrangements and the fraudulent use of intermediaries in relation to trafficking. Crucial elements to be considered are the access to information, safe reporting and complaint mechanisms for victims and vulnerable groups, next to enhancing access to adequate support, effective remedies and compensation, non-punishment and residence. In this respect, the European Trade Union Congress calls for effective complaint mechanisms being available for all workers regardless of status¹. Firewalls between labour inspectorates and migration authorities must ensure undocumented migrant workers do not run the risk of detention or deportation due to interactions with labour inspectors or pursuing judicial remedy. Undocumented and undeclared workers must be able to claim their employment rights without being subject to immigration enforcement action.

In terms of governance accountability, we note that the current proposed EU directive on Corporate Sustainability Due Diligence² goes further than what is proposed here, and we would support our New Zealand approach including the aim of the directive on this, which is to “improve corporate governance practices to better integrate risk management and mitigation processes of human rights and environmental risks and impacts, including those stemming from value chains, into corporate strategies”.

Support for implementation

This will not succeed without an increase in active labour inspection, and this must be resourced. While we understand that regulation of labour standards is experienced as a burden by some businesses, and that businesses will need time to review their supply chains and make necessary changes, human exploitation should not be something that is allowed to continue without meaningful penalty.

Also needed will be increased regional and cross-border cooperation among public authorities and the social partners and support for coherent and effective bipartite and tripartite joint activities dealing with labour market intermediaries and recruitment practices, and trafficking for labour exploitation.

¹ <https://www.etuc.org/en/circular/etuc-comments-new-eu-strategy-combating-trafficking-human-beings>

² https://ec.europa.eu/info/business-economy-euro/doing-business-eu/corporate-sustainability-due-diligence_en

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