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**PSA PASEFIKA 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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7 June 2022

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, Public Services International and UniGlobal.



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PSA Pasefika is one of the recognised networks within the PSA. Of the 80,000 PSA membership, over 5,000 identify as Pacific Island. PSA Pasefika has its own Komiti (Committee) embedded within the PSA structure.

The PSA Pasefika network holds position on the PSA Board and has Pacific representation within each of the sector committees across the PSA. PSA Pasefika also organises itself by having Vā Moana delegates as part of the formal delegate structures across organisations.

THIS SUBMISSION

This submission sets out PSA Pasefika's response to the consultation and primarily focuses on drivers which outline why it is important for Pacific workers to be protected by a legislative approach to modern slavery and worker exploitation.



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PSA PASEFIKA RESPONSE TO THE CONSULTATION

Dawn Raids

Immigration by Pacific Island families had increased from the second world war. The primary reasons for Pacific Island families wanting to come to New Zealand included job opportunities, money and most importantly the opportunity to further their childrens education. New Zealand was referred to as the land of “milk and honey”. This was a time when New Zealand needed cheap labour. As the Pacific population grew the need for more stable and organised Pacific communities grew. Places such as the Newton church in Edinburgh Street became hubs for Pacific Islanders coming from the islands to be able to learn how society worked in New Zealand and to gather amongst other Pacific Island families.

In the early 1970’s the political environment was changing and global forces were having an even bigger impact on New Zealand society. Unemployment was rising, however, Pacific Island people continued to come to New Zealand on visitors permits. It was deemed that as unemployment was rising these “overstayers” were used as scape goats for the social and economic problems.

The government of the day responded with various Acts such as the Immigration Act 1964 and its amendment in 1968 which allowed for the deportation of overstayers. Police were given the power to ask Pacific Island people for valid paperwork such as their passports, and permit to enter and remain temporarily in New Zealand. The Act enabled the formation of a specific police force tasked with mitigating violence incited by Pacific Island people. The police powers were broad and enabled what we know today as the “Dawn Raids”.

The Dawn Raids is an example of worker exploitation. The Pacific Island nations were responding to a labour shortage in New Zealand and looked at the opportunities for themselves to be able capitalize on what was being offered to them. The racial divide that was created by this and the perceptions of



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Pacific Island families being overstayers was shameful on many levels for Pacific Island people looking to have a better life in New Zealand, especially the Tongan and Samoan nations.

Recognised Seasonal Employers (RSE)

The Recognised Seasonal Employers scheme was established as another form of assisting New Zealand with a labour shortage in the horticulture and viticulture sectors.

For the very same reasons as the Dawn Raids, Pacific Island people would look to New Zealand as an opportunity to gain job opportunities, make money to send back to their families and provide education opportunities for their families.

The NZ Council of Trade Unions Te Kauae Kaimahi Komiti Pasifika and other affiliates such as E tū and the Labourers Unions were initially involved in the implementation of the RSE scheme. The intent was to build relationships between the unions in the Pacific Islands and the unions in New Zealand. To ensure when Pacific Island workers were coming to New Zealand that they had the pastoral care they needed to be able to carry out their work and that they understood how their roles and responsibilities as well as entitlements. It was also imperative for employers to understand the cultural differences and nuances in terms of working life in the Pacific in comparison to the working entitlements and environments in New Zealand, and provisions for such a workforce would differ to hiring someone from New Zealand.

This engagement was with the Department of Labour and included conventions from the International Labour Organisation (ILO). This was a tripartite approach to a growing workforce underpinned by trust, transparency and integrity

Unfortunately over time, the unions were pushed out of the discussion and the Department of Labour took it upon themselves to be the guardians of the scheme.



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The RSE scheme continue to be a discussion point across various Pacific Island forums with Pacific Island unions noting that the RSE scheme is seen as a great economic opportunity for both the host country and participating Pacific Islands. The economic benefits to individual families via the provision of remittances have far reaching benefits which includes social outcomes of enhancing lives and mana mana in their communities. However, they remain concerned about pastoral care and ensuring that their Pacific people are aware of the labour laws that would protect them from exploitation. And that awareness is a priority for countries in charge of RSE scheme.

The unions today hear anecdotal stories regarding the care of RSE workers. The stories are fed through various channels highlighting the importance of a collective approach to awareness raising and accessibility to meaningful resources and information. What this also shows is the ineffectiveness of excluding unions and Community voices from important discussions about modern day slavery and workplace exploitations.6oti n

These workers are in areas that are a bit more remote to the big cities given the Pacific diaspora are more urbanised therefore, are isolated and vulnerable. Some workers have extended fanau/family in country and some dont. We are aware where they the workers do try and establish their own micro communities to support each other, however, the clarity around their work rights is unknown along with access to Support and good quality information.



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THE DEFINITION OF MODERN SLAVERY

PSA Pasefika supports the approach as defined by MBIE to introduce disclosure and due diligence-based legislation, supported by guidance and tools to help improve practices. \

SUPPORT FOR IMPLEMENTATION

PSA Pasefika remains concerned about the RSE workforce that works remotely from organised workers. It is highly unknown what degrees of adherence are being carried out by employers and how they are treating their RSE workers; these are concerns from a contractual obligation and a pastoral care obligation. The supply chains associated with these employers are vast and it is important that this workforce is seen as integral to that supply chain and not just another cog in the wheel.

APPROACH OF THE LEGISLATION

The entity size based on revenue makes sense and the bigger the company the bigger the supply chain and therefore the bigger the responsibility regarding those particular areas.

Our concern in each of those areas would be:

1. Take reasonable and proportionate action if they become aware of:
 - a. Modern slavery in their international operations and supply chains, or
 - b. Modern slavery or worker exploitation in their domestic operations and supply chain

What is meant by reasonable and proportionate action? Who determines what is reasonable and proportionate?

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.

Who determines what due diligence looks like? Who monitors the adherence of carrying out due diligence?



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3. Disclose the steps they are taking to address:
 - a. Modern slavery in their international operations and supply chains, and
 - b. Modern slavery and worker exploitation in their domestic operations and supply chains.

Who are these companies disclosing their steps to and how are unions involved in this to ensure workers are protected accordingly, and the steps they determine to take are remedial, sustainable and embedded in the organisations practices?

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.

Who determines what due diligence looks like on the domestic and international level? The unions should be involved in what due diligence looks like to educate workers and enable reporting mechanisms which will have workers feel safe, and not just an 0800 number.

The proposals may be designed to have wide-ranging impact including victims and survivors of exploitation will be treated fairly and with dignity and respect. The question is what does that look like for a victim and survivor of such treatment. The shame and stripping of dignity may include the requirement to relocate and to reset. This would not be an easy task for someone who has undergone such experiences.

For further information about the submission please contact:

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