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# Government plan to combat modern slavery is bold, but out of step with Australian and global regimes




Submissions closed 7th June for the proposed modern slavery law in New Zealand. Since 8th April 2022, the government has been consulting on proposals regarding business obligations toward modern slavery.

This may see New Zealand adopt some of the strictest laws in the world regarding an entity's obligations to report on and prevent modern slavery along the supply chain.

The proposed law is set to affect all New Zealand entities. They also affect parent, holding companies and companies that exercise considerable contractual control over any New Zealand entity. Ideally, this proposed law would align with the Australian or global but that doesn't look to be the case.

### Proposed obligations on businesses

The proposals impose significant obligations on entities of all sizes, with medium and larger entities subject to more stringent obligations than smaller entities. Medium (annual revenue over \$20 million) and large entities (over \$50 million) would be required to disclose what steps are in place to prevent, mitigate and remedy modern slavery exploitation. Large entities must undertake due diligence on their entire supply chain. Australia's regime is triggered when revenue exceeds \$100 million and only requires disclosure of the steps in place, not due diligence also.

Depending on the submissions received, we could be in a position where reporting and compliance obligations differ between Australia and New Zealand, adding to both the cost and complexity of doing business.

All entities, regardless of size, will be subject to the requirement to take reasonable and proportionate steps if they receive notice of modern slavery in their domestic and international supply chains; as well as reasonable and proportionate steps if they receive notice of worker exploitation in their domestic operations and supply chains. Large entities will also be required to undertake due diligence to prevent, mitigate and remedy modern slavery exploitation where they are the parent or holding company, or if they exercise considerable contractual control over an entity.

### Worker Exploitation and Modern Slavery

Exploitation can be difficult to define. The Government describes exploitation as a continuum that takes many forms. This can range from minor breaches of the Employment Relations Act 2000, serious breaches of the Act such as underpaying and failing to provide leave and other benefits to extreme forms of exploitation that include sexual exploitation, trafficking, slavery and forced labour.

Such extreme forms of exploitation attract criminal liability to the perpetrators of it and are likely to be considered modern slavery for the purposes of the proposed legislation. The proposed legislation imposes obligations on New Zealand entities to prevent and mitigate modern slavery in both the international and domestic sphere.

### What's next for Businesses?

The changes may present challenges for New Zealand entities and for international businesses that operate in New Zealand. Complying with modern slavery obligations previously only imposed in much larger firms in other jurisdictions, like Australia, is unfamiliar territory for many New Zealand businesses.

The consequences of failing to comply with the future legislation would not only attract liability in a legal sense, but it would cause considerable damage to a business' reputation as modern slavery is a major breach of human rights. Such damage to a business' reputation would no doubt harm its brand value as well as its relationships with other businesses and the general market.

This is an area that businesses cannot afford to overlook. We recommend businesses seek legal advice regarding what they ought to consider as the legislation develops.

Please do not hesitate to contact the team at Wynn Williams with any questions that you may have about how the proposal may affect how your business and to discuss what steps you may need to take in order to ensure compliance with the proposed modern slavery regime.



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