Education and Workforce Committee
Modern Slavery Bill 2026

Transparency International New Zealand (**TINZ**) is the recognised New Zealand chapter of Transparency International, the global civil society organisation fighting corruption. TINZ is a not-for-profit incorporated society with charitable status. TINZ is non-partisan, and is powered largely by volunteers.

TINZ has consistently promoted greater transparency and legal accountability to prevent, detect and address modern slavery in New Zealand.

Thank you for the opportunity to provide this submission on the Modern Slavery Bill (the **Bill**), which is informed by our past submissions and is led by two voluntary Board Directors with expertise in this area: Sarah Cotgreave and Daniel Fielding.

TINZ **wishes to be heard** on this submission.

Summary:

TINZ strongly condemns modern slavery in all its forms and supports the intentions of the Bill.

Modern slavery can occur in every industry and sector, from agriculture and fisheries to construction, healthcare, IT services, hospitality, manufacturing, and mining – often hiding in plain sight within an organisation's supply chains. Factors such as poor governance, weak rule of law, inadequate labour protections, and socio-economic conditions like poverty significantly increase the risk of modern slavery.

The International Labour Organisation estimated that 50 million people were living in modern slavery in any given day in 2021.[1] Of these people, 28 million were in forced labour. Worryingly, the number of people in forced labour is increasing and occurs predominantly in the private sector.

While it might be tempting to think that modern slavery is a problem confined to far-off locations, New Zealand is not immune to such practices. The Walk Free Foundation estimates that there are approximately 8,000 people in modern slavery in New Zealand.[2] In 2020, New Zealand also saw its first criminal conviction for both human trafficking and dealing in slaves.[3]

World Vision estimated that last year, the average New Zealand household spent $77 per week on goods likely made through child labour and/or forced labour – that equates to nearly $8

[1] International Labour Organization *Global Estimates of Modern Slavery: Forced Labour and Forced Marriage* (September 2022).
[2] Walk Free Foundation *The Global Slavery Index 2023* (2023).
[3] *R v Matamata* [2020] NZHC 677.

billion a year.[4] 10 percent of New Zealand's imports in 2023 were likely harvested, mined, or produced using modern slavery.

Putting aside the moral importance of combatting modern slavery, modern slavery often overlaps with fraud, corruption, and weak internal controls – all key areas of concern for TINZ. In the words of the New South Wales Anti-Slavery Commissioner, Dr James Cockayne, modern slavery leaves us all worse off as it represents a system failure that:[5]

- breeds poverty;
- reduces productivity;
- institutionalises inequality;
- weakens economic multipliers;
- discourages innovation;
- distorts capital markets;
- impacts government revenue and spending;
- weakens governance;
- breeds corruption; and
- often harms the environment.

In terms of some preliminary comments, it is important to be clear about the purpose of the Bill and what the Bill is trying to achieve. The Bill as currently drafted would require in-scope entities to report on due diligence but does not itself impose a free-standing duty to undertake due diligence. Similarly, liability attaches to failures in reporting, not to the underlying exploitation (which are largely already addressed by domestic criminal law).

Within the international context of modern slavery legislation, the Bill falls within the category of supply chain transparency legislation (i.e. creating a reporting/disclosure obligation). In this regard, the Bill is similar to the United Kingdom's Modern Slavery Act 2015 (UK) and Australia's Modern Slavery Act 2018 (Cth), rather than to the substantive due diligence regimes operating in the European Union (and other European jurisdictions).

As currently drafted, the Bill is an important step to overcome stalled progress on modern slavery legislation in New Zealand, and in our view, when passed the Bill will assist in combatting modern slavery by better enabling:

- organisations to make informed decisions about the risk of modern slavery in their operations and supply chains;
- consumers to make informed decisions about the risk of modern slavery in their purchasing decisions of goods and services;
- prosecutions to occur through increased reporting of modern slavery incidents; and

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[4] World Vision *Risky Goods — Supply Chain Risk Report 2023: Aotearoa New Zealand Imports Linked to Child and Forced Labour* (2023).

[5] Dr James Cockayne, NSW Anti-Slavery Commissioner *Anti-Slavery As Smart Public Policy* Remarks at New South Wales Parliament House (10 November 2022).

- victim support and remediation to occur through increased transparency of modern slavery risks.

Notwithstanding the above, whilst TINZ is supportive of the Bill, we have some concerns with aspects of the current drafting and believe the Bill can be strengthened further to provide a more effective framework for addressing modern slavery.

TINZ congratulates the Members of Parliament supporting the Bill, and in particular Labour MP **Camilla Belich** and National MP **Greg Fleming** for developing the Bill and steering it through cross-party support.

We also recognise the group of leading human rights activists who in December 2024 released an important report "'*Building Consensus: A comprehensive Framework for Combating Trafficking in Persons and Modern Slavery in New Zealand*."

Particular elements that we support:

1. We are pleased to see robust penalties included in the Bill for non-compliance with the reporting obligations, including both criminal fines and civil penalties.

2. Given the annual spend of the Crown, we are pleased to see a procurement ban for non-compliant entities (subject to our comments regarding clarifying the current drafting).

3. We support mandatory public reporting and a public register – both important foundations for transparency, accountability and scrutiny.

In our view, the Bill can be improved in the following areas:

1. **Clarifying definitions so that reporting entities can determine the scope of their obligations:**

   The Bill adopts an "umbrella approach" to define modern slavery in clause 4 by reference to various domestic criminal offences and by reference to the international legal definition of human trafficking. This is the same approach used in Australia's Modern Slavery Act 2018 (Cth). We do not object to this approach, but the difficulty with this approach is some of the definitions are linked to specific offences while others are descriptive concepts from international legal definitions that do not align exactly with existing domestic criminal law definitions and have the potential to overlap with domestic employment and immigration law. The consequence is that a reporting entity may be required to report on conduct that falls within the Bill's definition of "modern slavery" but that would not, if occurring in New Zealand, constitute a domestic criminal offence.

Further, foundational concepts to whether an entity is within scope of the reporting obligation and the extent of the reporting obligation are not defined within the Bill, these include:

- the phrase “carried on business in New Zealand” and
- the phrases “operations” and “supply chains”.

To the extent possible, the scope of what conduct constitutes modern slavery for the purposes of complying with the Bill’s reporting obligations (especially when it overlaps with existing conduct regulated under domestic employment and immigration law) and the boundaries of foundational concepts that set the scope of the reporting obligation should be set out clearly in the Bill. This is particularly important given the proposed offences and penalties for non-compliance and because reporting entities will need to use the Bill's definitions as their practical compliance guide, subject to further guidance being issued by the registrar of modern slavery statements (the **Registrar**).

Therefore, **we recommend** that the Committee considers defining further these concepts or at least materially clarifying them in the Bill.

2. **Introducing a mandatory due diligence obligation:** The Bill does not have sufficient mandatory due diligence. The Bill requires *reporting* on actions taken to assess, prevent, address, mitigate, and remediate modern slavery and risks of modern slavery occurring, including due diligence and remediation processes, rather than requiring a reporting entity to *undertake* due diligence. This risks turning the reporting exercise into a "box-ticking" chore rather than actively ending exploitation.

   As noted above, within the international context of modern slavery legislation, the Bill as currently drafted falls within the category of supply chain transparency legislation (i.e. creating a reporting/disclosure obligation). This is a legitimate policy choice. However, in our view this creates a real risk that when enacted, the Bill will be legislatively modest by international comparator standards and risks becoming dated before or during its first statutory review cycle in about three years’ time.

   It is worth noting that in jurisdictions that currently have supply chain transparency legislation, such as United Kingdom and Australia, reviews of those statutes have recommended the introduction of a due diligence requirement. In the case of the United Kingdom, in 2024 the House of Lords Select Committee published its report on the review of the Modern Slavery Act 2015 (UK). It found that the United Kingdom had “*fallen behind*” on international due diligence developments and recommended that the United Kingdom adopts modern slavery due diligence legislation.[6] In Australia, the McMillan statutory review

[6] United Kingdom House of Lords *The Modern Slavery Act 2015: becoming world-leading again* (16 October 2024).

on the Modern Slavery Act 2018 (Cth),[7] tabled on 25 May 2023, recommended significant reforms including the introduction of penalties for non-compliance, a lower reporting threshold, and a requirement for entities to have a due diligence system in place.

Therefore, **we recommend** that the Committee considers the following:

- strengthening the Bill to include obligations on reporting entities to maintain proportionate, risk-based due diligence systems to identify, assess, prevent, mitigate and respond to modern slavery risks. Guidance on what such systems could look like could be issued by the Registrar under clause 13(c).
- the mandatory reporting content of modern slavery statements in clause 9 should go beyond describing risk in general terms and instead require entities to explain how risks have been identified and assessed, what due diligence steps have been taken, how suppliers have been engaged, whether remediation action has been required, and how the entity reviews effectiveness. These expectations should be framed proportionately, having regard to the size, sector, operating context and risk profile of the entity; and
- should the Committee decide not to introduce a stand-alone due diligence obligation, the review provisions in clauses 25 and 26 of the Bill should be strengthened (see our comments below).

3. **Broadening the considerations for prescribing a different reporting threshold revenue amount**: Clause 6 of the Bill sets the reporting threshold revenue amount at a consolidated revenue of more than NZD $100 million in a reporting period, mirroring the Australian legislation, or a different amount prescribed in regulations made under clause 24. While we have concerns that the proposed reporting threshold revenue amount is too high, as it will exclude small and medium-sized enterprises that are often heavily concentrated in industries known for high modern slavery risks such as garments and textiles, electronics, agriculture, construction, hospitality and cleaning and security, we support the ability to prescribe a different reporting threshold revenue amount by regulation.

   However, as drafted the effect of clause 24(2) is to confine the criteria guiding the prescribing of a reporting threshold revenue amount to modern slavery risks and economic or commercial developments. It does not require consideration of the effectiveness of the Bill, compliance under the Bill, the extent to which the threshold amount leaves certain sectors outside the scope of the reporting regime, or developments in comparable overseas jurisdictions.

[7] Australian Government *Report of the statutory review of the Modern Slavery Act 2018 (Cth): the first three years* (2023).

Therefore, **we recommend** that the Committee considers expanding the criteria under clause 24(2) to at least include considering the effectiveness of the Bill, when the Minister is recommending regulations to prescribe an applicable reporting threshold revenue amount.

4. **Broadening the review provisions:** Clause 25 requires a review of the operation and effectiveness of the Bill at least every five years, with the first review completed within three years of commencement. Clause 26 requires three-yearly reporting on victim support, the need for amendments, and whether a specialist person or body, such as an independent Anti-Slavery Commissioner, ought to be established or appointed.

   If the Bill remains a reporting model rather than a due diligence model, its review provisions will be very important. If the review provisions are weak, the legislation risks being ineffective, underenforced, and quickly outdated. The Bill will come into force in a regulatory environment where the European Union has adopted and amended a due diligence directive, and Australia and the United Kingdom have officially recognised the need for significant strengthening of their legislation.

   Therefore, **we recommend** that the Committee considers:
   - amending either clause 25 or 26 to require the Minister's review to consider:
     - developments in comparable overseas jurisdictions, including the extent to which those jurisdictions have moved from reporting only models to mandatory due diligence models;
     - whether the Act should be supplemented by substantive due diligence obligations; and
     - whether the Act's reporting threshold revenue amount and enforcement settings remain appropriate; and
   - if Parliament intends clauses 25 and 26 to function as a broader periodic review of New Zealand's modern slavery settings, which we support, those clauses should be drafted broadly enough to permit consideration of wider modern slavery issues, such as victim protection and remediation issues, not solely the operation of the reporting regime contained in the Bill.

5. **Minimising compliance burden:** We acknowledge that for entities required to report under the Bill they may need to put in place additional resources (although many may already be reporting under the Australian legislation in relation to their Australian operations). However, our view is the additional compliance burden can be minimised by making further amendments to the Bill.

   Therefore, **we recommend** that the Committee considers:
   - amending the definition of "reporting period" in clause 6 to permit non-government agency reporting entities to align their modern slavery statements to their own financial-year end dates rather than a fixed 1 April to 31 March period; and

- expressly permitting joint or group modern slavery statements for reporting entities part of the same corporate group.

For completeness, we note that the governments of the United Kingdom, Canada, and Australia have jointly issued guidance and a reporting template for those reporting entities that are required to report in one or more of those jurisdictions. The purpose of the guidance and template is to reduce the administrative burden and supports the development of one report for all three jurisdictions. Assuming the Bill is enacted, we would encourage the New Zealand Government to participate in this initiative.

6. **Expanding the scope to provide for voluntary modern slavery statements:** The proposed reporting threshold revenue amount will exclude most NGOs and other not-for-profit entities from the reporting framework. NGOs, not-for-profit entities, and other businesses that do not meet the reporting threshold may nevertheless still wish to submit modern slavery statements.

   Therefore, **we recommend** that the Committee considers:
   - expressly provide for voluntary modern slavery statements for those entities that do not meet the reporting threshold revenue amount; and
   - given that NGOs and not-for-profit entities often involve faith-based, cultural, voluntary, pro bono, internship and unpaid work arrangements, ensure that any guidance issued by the Registrar clarifies how genuine volunteer and pro bono arrangements, and minor employment law breaches interact with the modern slavery definition.

7. **Ensuring proportional enforcement, offences, and penalties:** We support the inclusion of civil and criminal penalties for non-compliance, which reflects the latest international practice for modern slavery legislation. We also support the intent behind the amendments to the Public Finance Act to prohibit non-complying entities from participating in public procurement. However, it is important that the offences and penalties are proportional to encourage early disclosure, transparency and corrective action, rather than concealment or defensive compliance by reporting entities.

   We would encourage any enforcement action for non-compliance with the Bill, at least in the early stages of implementation, to be focused on supporting reporting entities through education and continuous improvement.

   Therefore, **we recommend** that the Committee considers:
   - carefully reviewing (including seeking further advice where appropriate) the offences and penalties to ensure that they are proportional and appropriate to incentivise compliance; and

- carefully reviewing (including seeking further advice where appropriate) the amendments to the Public Finance Act to ensure the proposed ban from public procurement is effective, proportional and enforceable.

8. **Ensuring remediation and victim-centred responses:** As a general comment, the Bill should make clear that remediation and victim-centred response are important features of best practice. Where modern slavery risks or harms are identified, entities should be expected to take appropriate remedial action, including through complaints handling, escalation pathways, corrective action and engagement with affected suppliers or workers.

9. **Implementing the Bill:** The Bill's provisions should be communicated well in advance of commencement with key implementation stakeholders, including the Institute of Directors, CIPS, Immigration NZ, Public Service Commission, NGOs and professional associations such as TearFund, World Vision, Transparency International New Zealand, Business NZ and Chartered Institute of Procurement & Supply so that reporting entities, boards, procurement teams and enforcement partners are aligned and capability uplift can begin before reporting obligations take effect.

Submission ends

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