

Combatting Trafficking in Persons and Modern Day Forms of Slavery Bill (Modern Slavery Bill)

Explanatory note

This Bill requires reporting entities to report on how they identify, address, mitigate and remediate the risks of trafficking in persons and broader forms of modern slavery within their operations and supply chains. It also establishes an Independent Anti-Slavery Commissioner as an independent statutory officer.

Additionally, this Bill strengthens the legal framework for trafficking in persons offences and the protection of victims. These updates align definitions with international standards, and enhance the enforcement of criminal provisions and compliance, ensuring that operations and supply chain reporting obligations on entities are supported by a robust legal framework.

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Combatting Trafficking in Persons and Modern Day Forms of Slavery Act 2024

2 Short title

Modern Slavery Act

3 Commencement

This Act shall come into force on [date]

4 Interpretation

In this Act, unless the context otherwise requires,—

anti-slavery commissioner means the Independent Anti-Slavery Commissioner referred to in Part 3

competent authority means the government authority delegated by the Minister to perform the designated functions described in this Act

joint modern slavery statement means a report prepared and submitted by two or more reporting entities, outlining the collective actions taken during the previous financial year to address and mitigate modern slavery risks across their combined operations and supply chains in compliance with section 6 of this Act

modern slavery includes conduct that would constitute:

- (a) Slavery, servitude, or forced or exploitative labour according to Section 98B of the Crimes Act 1961
- (b) Exploitation of the prostitution of others, or sexual exploitation according to Section 98B of the Crimes Act 1961
- (c) Forced services according to Section 98B of the Crimes Act 1961
- (d) Trafficking in persons according to Section 98D of the Crimes Act 1961

(e) The worst forms of child labour according to Article 3 of the ILO Convention (No. 182) concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour and Section 98AA of the Crimes Act 1961 (forced or compulsory labour of children)

(f) Debt bondage or serfdom according to Section 98 of the Crimes Act 1961

modern slavery incident means an event, practice, or occurrence involving modern slavery within an entity's operations or supply chains

modern slavery statement means a report prepared by a reporting entity to outline the actions taken during the previous financial year to address modern slavery risks in its operations and supply chains in compliance with section 6 of this Act

operations mean all activity undertaken by an entity to pursue its objectives and strategy, including all material relationships an entity has which are linked to its activities, for example: investment and lending activity; material shareholdings; and direct and indirect contractual relationships (such as subcontracting and franchising relationships)

reporting entity see section 5

supply chain means the network of organisations that work together to transform raw materials into finished goods and services for consumers. They include all activities, organisations, technology, information, resources, and services involved in developing, providing, or commercialising a good or service into the final product for end consumers

trafficking in persons according to Section 98D of the Crimes Act 1961

victim of trafficking means a victim of trafficking in persons

Part 1

Reporting Entities

5 Meaning of Reporting Entity

(1) A reporting entity, for the purposes of this Act, is any entity that meets the following criteria:

(a) The entity is either:

(i) A New Zealand entity; or

(ii) An entity which conducts business in New Zealand.

(b) The entity had a consolidated annual revenue of at least \$50 million during its most recent financial year.

(2) The following entities are also considered reporting entities:

(a) Any entity that controls, directly or indirectly, an entity that meets the criteria outlined in subsection (1);

(b) An entity that voluntarily opts to comply with the requirements of this Act, regardless of meeting the revenue threshold;

- (c) An entity that is directed to comply with the requirements of this Act by the Registrar due to the operation of the entity in a geography or sector at high risk of modern slavery or due to other relevant factors as identified by the Registrar.
- (3) For the purposes of this section:
- (a) A "New Zealand entity" is an entity incorporated, registered, or constituted under New Zealand law;
 - (b) An entity "conducts business in New Zealand" if it has a place of business in New Zealand, and commercial activities in New Zealand that meet the threshold outlined in section (1)(a), whether directly or through subsidiaries or other arrangements;
 - (c) An entity "controls" another entity if it:
 - (i) Directly or indirectly holds more than 50% of the voting shares or ownership interests; or
 - (ii) Has the ability to govern the financial or operating policies of the entity.
- (4) The threshold for consolidated annual revenue may be decreased by regulations made under this Act, considering high-risk modern slavery sectors, economic changes and commercial developments within New Zealand and globally.

Part 2

Reporting Obligations

6 Mandatory Criteria for Modern Slavery Statements

- (1) A Modern Slavery Statement must:
- (a) Identify the reporting entity.
- Description of structure, operations and supply chains*
- (b) Describe the structure, operations and supply chains of the reporting entity, including any entities owned or controlled by the reporting entity.
 - (c) Include details of both domestic and international operations and supply chains.
- Risk identification and assessment*
- (d) Describe the incidents and risks of actual or potential modern slavery practices within the operations and supply chains of the reporting entity and any entities the reporting entity owns or controls.
- Actions taken to address incidents and risks*
- (e) Describe any actions taken by the reporting entity, and any entity that the reporting entity owns or controls, to assess, prevent, address, mitigate and remediate incidents and risks identified in (d).
- Remediation and accountability*
- (f) Detail:
 - (i) the number of complaints relating to modern slavery made to the entity and;

- (ii) the measures taken to provide remediation for any modern slavery incidents identified within the operations or supply chains of the reporting entity

Assessment of effectiveness

- (g) Describe how the reporting entity assesses the effectiveness of the actions taken under (e) and (f) to ensure modern slavery is not being used in its operations and supply chains and describe the continual improvement of remediation practices.

Consultation and training

- (h) Describe the process of training and consultation undertaken by the reporting entity with:
 - (i) Internal staff members
 - (ii) Any entities owned or controlled by the reporting entity; and
 - (iii) Any other external entities, where applicable, that are party to the disclosure or affected by modern slavery risks in the supply chain.

Approval of the Statement

- (i) For single reporting entities:
 - (i) Be approved by the board of directors or equivalent governing body of the reporting entity, and
 - (ii) Be signed by a director, or a person in a similar position of authority within the reporting entity.
- (j) For joint reporting entities:
 - (i) Be approved by the board of directors or equivalent governing body of:
 - (A) each reporting entity covered by the statement; or
 - (B) an entity that controls, either directly or indirectly, any reporting entity subject to the statement, regardless of whether it is itself covered by the statement, and
 - (ii) Be signed by a director, or a person in a similar position of authority within:
 - (A) each reporting entity covered by the statement, or
 - (B) an entity that controls, either directly or indirectly, any reporting entity subject to the statement.

7 Modern Slavery Statements Register

- (1) The Minister shall establish and maintain a central, publicly accessible register (the "Register") for Modern Slavery Statements and appoint a Registrar to administer that register.
- (2) The Register must:
 - (a) Be easily searchable by the public, enabling users to efficiently locate specific statements;
 - (b) Provide the option to download Modern Slavery Statements in full, supporting transparency and accountability; and

- (c) Allow for the submission of Modern Slavery Statements through an online portal.
- (3) The Registrar shall:
 - (a) develop:
 - (i) a standardised coversheet to be used by all reporting entities; and
 - (ii) an optional template to assist reporting entities in preparing and submitting their Modern Slavery Statements; and
 - (b) facilitate the submission process via an online portal linked to the Register.

8 Requirements for reporting entities to publish Modern Slavery Statements

- (1) All reporting entities are required to submit a Modern Slavery Statement that complies with section 6 of this Act and in doing so must:
 - (a) Upload their Modern Slavery Statement to the Register; and
 - (b) If the reporting entity maintains a website, publish the same Modern Slavery Statement in a prominent and easily accessible location on their website.
- (2) The version of the Modern Slavery Statement published on the entity's website must be identical to the version submitted to the Register.

9 Frequency of Reporting

- (1) Reporting entities required to submit a Modern Slavery Statement under this Act must do so annually, within six months following the end of their financial year.

10 Public Access, engagement and guidance

- (1) The Register must be freely accessible to the public, without any fees or barriers to access.
- (2) The Registrar is responsible for regularly updating the Register with all submitted Modern Slavery Statements and ensuring it operates effectively, offering easy search and download capabilities.
- (3) The Register must be designed to be user-friendly and accessible to all, including individuals with disabilities.
- (4) The Registrar may issue guidelines to facilitate compliance with reporting obligations including guidelines outlining sectors, geographies and products at high risk of modern slavery.

11 Offences

- (1) Every reporting entity is liable on conviction to a fine not exceeding \$200,000 for committing any of the following offences:
 - (a) Failing to prepare, submit and publish a Modern Slavery Statement to the Register; or
 - (b) If the reporting entity maintains a website, failing to publish the Modern Slavery Statement on their website; or

- (c) Submitting or publishing an incomplete Modern Slavery Statement that fails to address the mandatory criteria in section 6.
- (2) Every person that knowingly makes any false or misleading statement or knowingly provides false or misleading information in a Modern Slavery Statement commits an offence and is liable on conviction to imprisonment for a term not exceeding 1 year, a fine not exceeding \$200,000, or both.
- (3) This section does not apply to a reporting entity that is a government agency.

12 Liability of directors or other persons involved in the management of reporting entities

- (1) If a reporting entity is convicted of an offence against this Act, a director of the reporting entity (if any), or a person involved in the management of the reporting entity, is guilty of the same offence and liable on conviction to the same penalty if it is proved—
 - (a) that the act or omission that constituted the offence took place with the director or person’s authority, permission, or consent; or
 - (b) that the director or person knew, or could reasonably be expected to have known, that the offence was to be or was being committed and failed to take all reasonable steps to prevent or stop it.

13 Publication of Non-Compliance Decisions

- (1) Upon any conviction being entered under section 11, the following information will be published in a dedicated section of the register:
 - (a) The name of the reporting entity.
 - (b) A description of the offence.
 - (c) The applicable penalty imposed.
- (2) The published information will remain accessible on the register for a period of three (3) years from the date the decision becomes final.
- (3) The publication of non-compliant decisions aims to enhance transparency, promote accountability, and inform the public about entities failing to meet their obligations under this Act.

14 Exclusion from public procurement processes

- (1) Where a reporting entity is found to have committed repeated offences under this Act, the entity may be excluded from being awarded public contracts for a period of up to (3) three years.
- (2) The decision to exclude a reporting entity from public procurement shall be made in accordance with New Zealand Government Procurement Rules.

Part 3

Establishment of Independent Anti-Slavery Commissioner

15 Independent Anti-Slavery Commissioner

- (1) The Governor General may appoint a person as the Independent Anti-Slavery Commissioner.
- (2) A person must not be appointed under subsection (1) as the Commissioner unless the Governor General is satisfied that the person has the appropriate knowledge, skills, and experience to assist the statutory entity to achieve its objectives and perform its functions, including in two or more of the following fields:
 - (a) human rights issues relating to business practices, preferably including modern slavery issues;
 - (b) knowledge or experience in public policy and operational frameworks and activities relating to combating forms of modern slavery, including combating trafficking in persons which may include experience engaging with victims of modern slavery or trafficking in persons;
 - (c) skills in, or experience in;
 - (i) advocacy or public education:
 - (ii) community affairs:
 - (iii) regulation.
- (3) The selection of the person for the appointment is the result of a process that:
 - (a) was merit based; and
 - (b) included public advertising of the position.
- (4) Subsection (2) does not apply in relation to the reappointment of a person who, immediately before the start of the period of reappointment, holds office as the Commissioner under a previous appointment under subsection (1).
- (5) The Commissioner's appointment period must not exceed 5 years.
- (6) A person is not eligible for appointment more than twice.

16 Terms of office

- (1) The Governor General may pay in respect of the Commissioner any expenses, remuneration or allowances that the Governor General may determine, including staffing expenses.
- (2) The Commissioner may, in accordance with expenses permitted in subsection (1):
 - (a) appoint staff, or engage such consultants or contactors as are necessary, to enable the Commissioner to exercise the Commissioner's functions
 - (b) arrange for the use of the services facilities of a government agency.
- (3) The Governor-General may terminate the appointment of the Commissioner:

- (a) for misconduct; or
 - (b) if the Commissioner is unable to perform the duties of the Commissioner's office because of incapacity or incompetence.
- (4) After a Commissioner has been appointed, as soon as practicable after the office of the Commissioner becomes or is vacant, a Commissioner or acting Commissioner must be appointed.
- (5) The Governor General may, by written instrument, appoint a person to act as the Commissioner:
- (a) during a vacancy in the office of the Commissioner; or
 - (b) during any period, or during all periods, when the Commissioner is absent from duty or is, for any reason, unable to perform the duties of the office.

17 Independence

- (1) The Commissioner is not subject to the control or direction of any Minister in respect of the exercise of the Commissioner's functions under this Act.

18 Functions of the Commissioner

- (1) The Commissioner must encourage action related prevention, protection and prosecution (enforcement) to combat trafficking in persons, forced labour, and broader forms of modern slavery.
- (2) The Commissioner must encourage this activity to be undertaken by the government and other actors in partnership, including with victims, survivors and persons with lived experience of modern slavery.
- (3) In performing the functions, the Commissioner must take into account New Zealand's relevant international obligations.
- (4) To achieve subsections (1) and (2), the Commissioner may:
- (a) advocate for and promote action to combat modern slavery,
 - (b) monitor the effectiveness of legislation and governmental policies and action in combating modern slavery, and make recommendations accordingly,
 - (c) provide guidance, information, advice, education and training about action to combat modern slavery, including in relation to the provisions of this Act,
 - (d) co-operate with or work jointly with persons and organisations to combat modern slavery,
 - (e) monitor reporting concerning risks of modern slavery occurring in operations and supply chains,
 - (f) raise community and stakeholder awareness of modern slavery,
 - (g) exercise such other functions as are conferred or imposed on the Commissioner by or under this or any other Act.

19 Advisory Panel

- (1) In exercising the Commissioner's functions, the Commissioner may:
 - (a) establish an expert advisory panel (appointment of any member must not exceed the commissioner term, but may be renewed in subsequent terms); and
 - (b) work with, consult with, and disseminate information to, the persons and organisations that the Commissioner thinks appropriate, including with victims, survivors and persons with lived experience of modern slavery.

20 Strategic Plan

- (1) The Commissioner must, as soon as reasonably practicable, prepare and publish on a publicly available website a strategic plan.
- (2) The Commissioner may revise the strategic plan at any point.
- (3) The strategic plan must:
 - (a) state the period (not being less than one year) to which it relates, and
 - (b) outline the Commissioner's key objectives and priorities for that period.
- (4) In particular, and without limiting subsection 3, the plan must address section 18 of this Act.

21 Annual Report

- (1) The Commissioner is required to prepare an annual report.
- (2) The Commissioner must omit from any report before publication any material where publication may be likely to:
 - (a) jeopardise the safety of any person; or
 - (b) prejudice the investigation or prosecution of an offence.

22 Individual cases

- (1) The Commissioner must generally not exercise any function in relation to an individual case. The Commissioner may consider individual cases and draw conclusions about them for the purpose of, or in the context of, considering a general issue.
- (2) The Commissioner may, despite subsection (1), provide individuals and their families, friends and advocates with information about and referral to relevant government and non-government programs and services.

23 Duties of Public Authorities to cooperate with the Commissioner

- (1) The Commissioner may request a specified public authority to cooperate with the Commissioner in any way that the Commissioner considers necessary for the purposes of the Commissioner's functions.

- (2) A specified public authority must so far as reasonably practicable comply with a request made to it under subsection (1). This does not apply in relation to the provision of private personal information.

Part 4

Establishment of Ministerial Advisory Committee

24 Advisory Committee

- (1) In exercising the Minister's functions in administering the Act, the Minister must establish a Ministerial Advisory Committee to provide the Minister independent expert advice.
- (2) Appointed members should hold appropriate expertise in trafficking in persons and modern slavery.
- (3) Committee membership should, as appropriate and where possible, include representation of victims, survivors or persons with lived experience, non-governmental organisations, other relevant organisations and other elements of civil society.
- (4) The appointment of any member must not exceed a five-year term but may be renewed in subsequent terms.

Part 5

Data

25 Duty to notify

- (1) If a public authority to which this section applies suspects that a person may be a victim of trafficking or broader form of modern slavery it must notify the Competent Authority.
- (2) A notification relating to a person aged 18 or over may not include information that—
 - (a) identifies the person, or
 - (b) enables the person to be identified (either by itself or in combination with other information).
- (3) If a public authority to which this section applies suspects that a person may be a victim of trafficking the public authority should act in accordance with Section 26 in relation to referral of the person for certification.
- (4) The Competent Authority must publish annually the number of notifications received and associated relevant data on a publicly available site.
- (5) This section applies to:
 - (a) The New Zealand police
 - (b) The Ministry of Business, Innovation and Employment, including Immigration New Zealand
 - (c) The Ministry of Social Development
 - (d) Oranga Tamariki

- (e) Regional Councils
- (f) Territorial Councils or Authorities
- (g) Any public authority nominated by the Minister or Competent Authority

Part 6

Victim Referral and Support

26 Referral for identification and support

- (1) Specified government and non-government agencies must be designated as having First Responder Status.
- (2) First Responder Status is to be reviewed every five years at the latest.
- (3) The list of agencies with First Responder Status is to be published on a publicly available website.
- (4) First Responder agencies must provide information to a suspected victim of trafficking of their option of referral to the Competent Authority for assistance and certification.
- (5) Non-government First Responder agencies can refer a suspected victim of trafficking to the Competent Authority for assistance and certification if the victim consents to the referral.
- (6) Government First Responder agencies must refer a suspected victim of trafficking to the Competent Authority for assistance and certification if the victim consents to the referral.

27 Emergency accommodation and assistance

- (1) On receipt of a referral, which the Competent Authority considers is plausible, the Competent Authority shall provide or arrange immediate appropriate emergency accommodation and assistance to the referred person.
- (2) If the Competent Authority does not consider the referral is plausible it must notify the person in writing within three working days.
- (3) The person or their representative may request a review of the Competent Authority's decision.
- (4) Emergency accommodation and assistance may only cease;
 - (a) If the person's case has been assessed for certification and the person has not been certified as a victim of trafficking; or
 - (b) Once a person has been certified as a victim of trafficking and:
 - (i) The person has had a minimum of 90 days accommodation and assistance to allow for recovery and reflection; and
 - (ii) Follow up accommodation and support arrangements are in place to ensure the person will not be or will not likely find themselves in a situation of homelessness or at risk of re-exploitation; or
 - (c) The person consents and requests to exit the accommodation and/or end the assistance.

- (5) In the case of (4)(a):
 - (a) a minimum period of 21 days notice must be given to end the accommodation and assistance; and
 - (b) the person must receive support to make ongoing arrangements; and.
 - (c) if adequate support has not been given, the notice period must be extended to 90 days.
- (6) Assistance includes but is not limited to:
 - (a) A weekly stipend to allow for purchases of essential goods and services
 - (b) Vouchers for essential goods and services
 - (c) Referrals for appropriate support services, including legal services
 - (d) Support worker services
- (7) A person eligible under subsection (1) may elect to receive either assistance or accommodation, or both.

28 Certification of victims of trafficking

- (1) Certification of a person as a victim of trafficking shall be granted if the Competent Authority has reasonable grounds to suspect the person is a victim of trafficking (as defined in section 98D of the Crimes Act 1961).
- (2) The Competent Authority may request information from the suspected victim and/or other relevant parties in order to make the decision.
- (3) A written certification decision must be provided to the person, including reasons for the decision.
- (4) A certification decision must be made within 90 days of referral to the Competent Authority, unless an extension is required to enable the consideration of relevant evidence to be able to make a positive decision, including requests made to the victim and/or other relevant parties.
- (5) The person may seek a review of the decision of the Competent Authority or engage a representative to seek a review of the decision on their behalf.
- (6) Any requests for information from other relevant parties must be made with the suspected victim's consent.

29 Non-Conditionality

- (1) A person eligible for entitlements under this part must be awarded the entitlements as set out in this part regardless of the existence of a state investigation, enforcement action or prosecution of a trafficking in persons or related matter.
- (2) A decision not to commence an investigation, enforcement action or prosecution does not preempt or determine the outcome of the identification and certification decision of a person as a victim of trafficking.
- (3) A decision by the person to not participate in the enforcement process, as a witness or otherwise, does not:

- (a) Preclude the person from accessing the entitlements as set out in this section
- (b) Constitute obstruction of an investigation

Part 7

Principle of non-punishment

30 Defence for trafficking victims who commit an offence

- (1) A person is not guilty of an offence if the offence is connected to their circumstances of trafficking in persons.
- (2) Connected circumstances are when:
 - (a) The act that constitutes the offence was committed as a direct consequence of the person's situation of trafficking;
 - (b) The act that constitutes the offence was committed within the circumstances of and in connection to the person being, or having been, trafficked.
- (3) An offence under subsection (1) excludes offences listed in Schedule A.

31 Clean slate provision

- (1) A person who was:
 - (a) found guilty of an offence attributable to their circumstances of trafficking in persons; and
 - (b) was not able to raise the defence in section 30.
- (2) May apply to have the offence concealed under the Clean Slate Scheme prior to the completion of seven consecutive years after the date on which the individual was last sentenced, or a specified order was last made, in which the individual has not been convicted of an offence.

Part 8

Legal assistance

32 Legal Aid

Amend section (7) of the Legal Services Act 2011 to insert:

7 Proceedings for which legal aid may be granted: civil matters

- (1) Legal aid may be granted in respect of the following civil matters:

...

- (ka) the processing of an application for any trafficking victim visa

(kb) proceedings in the District Court, High Court, Employment Relations Authority, Employment Court and any proceedings arising on appeal from those bodies where:

(i) the claimant is a victim of trafficking; and

(ii) the proceedings seek relief in relation to the circumstances which led to the person being a victim of trafficking.

Part 9

Statutory guidance

33 Identification, Certification and Support Guidance

- (1) The Competent Authority shall publish publicly available guidance on the:
 - (a) Eligibility for First Responder Status
 - (b) Process related to the referral for, and provision of, assistance, accommodation and certification for suspected victims of trafficking, at all stages
 - (c) Certification status and subsequent entitlements
 - (d) Process for review and appeal of support and identification decisions including certification
 - (e) Definition of Trafficking in Persons
 - (f) Indicators of Trafficking in Persons, including;
 - (i) Situational and environmental
 - (ii) Physical and Physiological
 - (g) The certification decision making process, including
 - (i) Identification criteria
 - (ii) Evidence considered
 - (iii) Evidential standards applied
 - (h) Roles and Responsibilities of different stakeholders
 - (i) Information Sharing
 - (j) Information related to children
 - (k) Trauma informed support
 - (l) Information for the private sector
- (2) The Competent Authority must consult with relevant agencies and non-government stakeholders when developing the guidance.
- (3) The Guidance may be updated by the Competent Authority as appropriate.

Part 10

Amendments to the Crimes Act 1961

34 Section 98B (Terms used in sections 98C to 98F) of the Crimes Act 1961 amended

(1) Replace section 98B of the Crimes Act 1961 with:

98B Terms used in sections 98C to 98F

In sections 98C to 98F, unless the context otherwise requires, -

act of trafficking means any one or more of the following and may be either discrete conduct or a course of conduct—

- (a) arranging or facilitating the entry of a person into, or the exit of a person out of, New Zealand or any other State:
- (b) receiving, recruiting, employing, transporting, transferring, concealing, harbouring or housing a person in New Zealand or any other State

arranges for an unauthorised migrant to be brought to a State includes—

- (a) organises or procures the bringing to a State:
- (b) recruits for bringing to a State:
- (c) carries to a State

arranges for an unauthorised migrant to enter a State includes—

- (a) organises or procures the entry into a State:
- (b) recruits for entry into a State:
- (c) carries into a State

document includes a thing that is or is intended to be—

- (a) attached to a document; or
- (b) stamped or otherwise signified on a document

exploitation includes —

- (a) the exploitation of the prostitution of a person:
- (b) sexual exploitation:
- (c) slavery, practices similar to slavery, servitude, forced or exploitative labour, or other forced services:
- (d) the removal of organs

forced or exploitative labour means:

- (a) work or service which:
 - (i) is exacted from any person under the threat of harm (including to another person); or

- (ii) is provided in circumstances that could reasonably be expected to cause the person to believe that he or she or some other person would be likely to suffer harm if the person failed to provide or offer to provide the work or service; or
 - (iii) involves serious violation of legislation relating to minimum wage, working hours, rest periods, mandatory leave, holidays or rules on health and safety in the workplace; or
- (b) if the person is under 18 years of age or is mentally or physically ill or disabled:
- (i) work or service which a person would be likely to refuse to perform if the person was aged 18 years or over or did not have the illness or disability; or
 - (ii) work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of the person

forced services includes forced criminality, forced marriage, and the use, procuring or offering of the person for illicit activities

harm or harming means harm of any kind to the person and, in particular, includes—

- (a) causing physical, psychological, or financial harm to the person:
- (b) sexually mistreating the person:
- (c) causing harm to the person's reputation, status, or prospects

means of trafficking means any one or more of the following and may be either discrete conduct or a course of conduct—

- (a) an act of coercion against a person, including:
 - (i) abducting the person:
 - (ii) using force in respect of the person:
 - (iii) harming the person:
 - (iv) threatening (expressly or by implication) to do any of the above to the person or some other person
- (b) an act of deception against a person, including a fraudulent action:
- (c) the abuse of a position of power, vulnerability or trust:
- (d) the giving or receiving of payments or benefits to achieve the consent of a person having control over another person

servitude means the condition of a person who provides work or service where a reasonable person in that position would not consider himself or herself free—

- (a) to cease providing the work or service; or
- (b) to leave the place where he or she provides the work or service

and the person is significantly deprived of personal freedom in aspects of his or her life other than the provision of work or service

sexual exploitation includes any actual or attempted abuse of a position of power, vulnerability or trust for sexual purposes

slavery means the status or condition of a person who is used as the property of another person and thereby controlled as if owned by that other person

unauthorised migrant, in relation to a State, means a person who is neither a citizen of the State nor in possession of all the documents required by or under the law of the State for the person's lawful entry into the State.

35 Section 98D (Trafficking in Persons) of the Crimes Act 1961 amended

(1) Replace section 98D with:

98D Trafficking in persons

- (1) Every person is liable to the penalty stated in subsection (3) who does an act of trafficking in respect of a person for the purpose of the exploitation of the person, knowing that the act of trafficking or the exploitation involves or will involve a means of trafficking in respect of the person.
- (2) Notwithstanding subsection (1), every person is liable to the penalty stated in subsection (3) who does an act of trafficking in respect of a person under the age of 18 years for the purpose of the exploitation of the person.
- (3) The penalty is imprisonment for a term not exceeding 20 years, a fine not exceeding \$500,000, or both.
- (4) An act of trafficking and a means of trafficking may take place at the same or different times and may take place at any time before or during any exploitation of the person.
- (5) It is not a defence to a charge under this section that —
 - (a) the person against whom the offence is alleged to have been committed consented to, or acquiesced in, conduct constituting any element of the offence:
 - (b) parts of the process by which the person was exploited were accomplished without an act of trafficking or a means of trafficking:
 - (c) the person was not in fact exploited.

36 Section 98F (Attorney-General's consent to prosecutions required) of the Crimes Act 1961 amended

(1) Replace section 98F with:

98F Attorney-General's consent to prosecutions required

- (1) Proceedings for an offence against [section 98C](#) cannot be brought in a New Zealand court without the Attorney-General's consent.

- (2) A person alleged to have committed an offence against [section 98C](#) or [section 98D](#) may be arrested, or a warrant for the person's arrest may be issued and executed, and the person be remanded in custody or on bail, even though the Attorney-General's consent to the bringing of proceedings against the person, if required, has not been obtained.

Part 11

Three-year review

37 Three-year review

- (1) The Minister must undertake a review of the Act and any rules or regulations.
- (2) The Minister must consider in the review whether mandatory due diligence requirements should be introduced beyond the existing requirements of the Act.
- (3) The Minister must recommend for the Governor General's appointment an Independent Anti-Slavery Commissioner under section 15 if a Commissioner has not yet been appointed.
- (4) The Minister must cause a report to be prepared reviewing:
- (a) subsection (2)
 - (b) the operation of this Act or any rules or regulations over the period of (3) three years following the commencement of this section; and
 - (c) compliance with this Act and any rules or regulations over that period; and
 - (d) whether additional measures to improve compliance with this Act and any rules or regulations are necessary or desirable; and
 - (e) whether a further review of this Act and any rules should be undertaken, and if so, when; and
 - (f) whether it is necessary or desirable to do anything else to improve the operation of this Act and/or any rules or regulations; and
 - (g) whether the amendments to the Act or any rules are required to implement the recommendations of the review.
- (5) The review must be:
- (a) started as soon as practicable after the end of the period of three years after this section commences; and
 - (b) completed within 12 months after it starts.
- (6) The Minister will table a report setting out any further changes to the Act or any rules or regulations to the House of Parliament within 12 months of completion of the report.