

## **Article 22 of the Constitution of the ILO**

Report for the period June 2001 to July 2003 made by the Government of New Zealand  
on the

### **WORST FORMS OF CHILD LABOUR CONVENTION, 1999 (No. 182) (ratification registered on 14 June 2001)**

- I. **Please give a list of the laws and regulations, etc., which apply the provisions of the Convention. Where this has not already been done, please forward copies of these texts to the International Labour Office. Please give any available information concerning the extent to which these laws and regulations have been enacted or modified to permit, or as a result of, ratification.**

The Crimes Amendment Act 2001 came into effect in April 2001 bringing New Zealand legislation into full compliance with ILO Convention 182 through the following sections:

Section 98 - Dealing in slaves;

Section 149 – Procuring for prostitution; and

Section 149A – Being a client in act of prostitution by person under 18 years of age. Sections 149 and 149A have since been repealed and section 149A has been replaced in the Prostitution Reform Act 2003, enclosed as Annex A. (further details on the Prostitution Reform Act are provided under Article 1 below).

Other legislation, while not directly targeted at worst forms of child labour, is also relevant:

- Education Act 1989 [Part III enclosed as Annex B]
- Health and Safety in Employment Act 1992 [enclosed as Annex C]
- Health and Safety Regulations 1995 [enclosed as Annex D]
- Films, Videos and Publications Classification Act 1993 [enclosed as Annex E]
- Crimes Act 1961 including Amendments [enclosed as Annex F]
- Sale of Liquor Act 1989 [enclosed as Annex G]
- Children, Young Persons and Their Families Act 1989 [enclosed as Annex H]
- Minimum employment code (legislation previously provided)
- Employment Relations Act 2000 (legislation previously provided)

**II. Please indicate in detail for each of the following Articles of the Convention the provisions of the above-mentioned laws and regulations, etc., or other measures, which give effect to each Article. In addition, please also give any information specifically requested on the different Articles.**

**If in your country ratification of the Convention gives the force of national law to its terms, please indicate by virtue of what constitutional provisions the**

**ratification has had this effect. Please also specify what action has been taken to make effective those provisions of the Convention which require a national authority to take certain specific measures.**

**If the Committee of Experts or the Conference Committee on the Application of Standards has requested additional information or has made an observation on the measures adopted to apply the Convention, please supply the information asked for or indicate the action taken by your Government to settle the points in question.**

### *Article 1*

Each Member which ratifies this Convention shall take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency.

*Please provide a general overview of the measures taken to apply this Article.*

The New Zealand Government is deeply concerned about the exploitation of children and is engaged in a number of initiatives that are focused on this issue. Below is a summary of action plans and legislation which either directly or indirectly work towards the prohibition and elimination of all worst forms of child labour.

#### AWARENESS RAISING & EDUCATION

##### *Child Labour Officials Advisory Group*

The Government formed the Child Labour Officials Advisory Committee (CLOAC) in 2001 to raise public awareness and understanding of Convention 182 and encourage initiatives to identify and eliminate the worst forms of child labour in New Zealand. Further information on CLOAC and its activities to date are provided under Articles 5 and 6 below.

#### PREVENTION

##### *National Plan of Action against the Commercial Sexual Exploitation of Children*

In 1996, a World Congress against the Commercial Sexual Exploitation of Children was held in Stockholm. At the Congress, delegates unanimously adopted a Declaration and an Agenda for Action which advocate integrated measures, based on:

- co-ordination of actions at the local, national, regional and international levels
- prevention of child sexual exploitation
- protection of child victims
- promotion of recovery and reintegration of victims
- child participation in addressing the problem.

New Zealand government agencies and key non-government organisations and community groups - including the Ministry of Justice, the Department of Child, Youth and Family Services, the New Zealand Police, the Department of Internal

Affairs, End Child Prostitution, Pornography and Trafficking (ECPAT), the New Zealand Prostitutes' Collective, and the Human Rights Commission - worked together to develop New Zealand's National Plan of Action against the Commercial Sexual Exploitation of Children, which was approved in October 2001 (attached as Annex One).

The Plan of Action provides a comprehensive examination of the four main activities that exploit children for their commercial value: child prostitution, child pornography, child sex tourism, and child trafficking for sexual purposes. It outlines the measures that are being implemented to prevent and respond to these activities in New Zealand. It also identifies the challenges that New Zealand continues to face in each area and suggests future action for addressing these concerns. The Plan of Action includes a table that identifies the activities, their objectives, relevant agencies, and a timetable for implementation.

## PROHIBITION & ENFORCEMENT

### *Education Act 1989*

New Zealand has a number of provisions that restrict the employment of young persons. For example, the Education Act 1989 requires children to attend school until 16 years of age. The Act also prevents the employment of school age children within school hours or if the employment interferes with the child's attendance at school. The Ministry of Education administers the Education Act. Part III of the Act is enclosed as Annex B.

Child Youth and Family also has a role to ensure that children and young people who are in the custody and/or guardianship of the Chief Executive attend school or receive appropriate alternative educational or vocational services. Child Youth and Family also has a protocol with the Ministry of Education which enables schools to access the care and protection Family Group Conference process when a child or young person's truanting causes concern for their wellbeing.

### *Health and Safety in Employment Act 1992 and Regulations*

The Health and Safety in Employment Act 1992 promotes the prevention of harm to all persons at work. The employer has a duty to take all practicable steps to provide a safe and healthy working environment and to eliminate any significant hazards to employees. Where elimination is impracticable, the employer must isolate or minimise the hazard. The Act covers all employees regardless of age, thus protecting children from employment that may cause them harm. The definition of harm includes physical or mental harm. Employees have the right to refuse to perform work likely to cause them serious harm. The Act also covers people receiving on the job training or gaining work experience. The Act is enclosed as Annex C.

There are also a number of specific restrictions on the employment of children under occupational health and safety requirements. Provisions in the Health and Safety in Employment Regulations 1995 restrict the employment of people

under 15 years of age in industries and situations where the work taking place is likely to cause harm to their health and safety. The Regulations also prohibit the employment of people under 16 between the hours of 10pm and 6am, unless the employee's employment complies with an approved code of practice. The Regulations are enclosed as Annex D.

Health and safety inspectors employed by the Department of Labour ascertain and ensure compliance with the Health and Safety in Employment Act. In the year to June 2002, health and safety inspectors conducted 10,123 compliance assessment visits and 10,971 visits in response to notifications received. Health and safety inspectors also provide information and education to promote health and safety at work, making 10,437 visits in the year to June 2002 to deliver information. In addition, the Department of Labour hosts an occupational safety and health website for youth which provides workplace health and safety information specifically tailored for young people.

### *Prostitution Reform Act 2003*

The Act, administered by the Ministry of Justice, states one of its purposes as creating a framework that prohibits the use in prostitution of persons under 18 years. The Act, enclosed as Annex A, contains the following provisions:

- *Section 20 - no person may assist person under 18 years in providing commercial sexual services*  
no person may cause, assist, facilitate, or encourage a person under 18 years of age to provide commercial sexual services to any person.
- *Section 21 - no person may receive earnings from commercial sexual services provided by person under 18 years*  
no person may receive a payment or other reward that he or she knows, or ought reasonably to know, is derived, directly or indirectly, from commercial sexual services provided by a person under 18 years of age.
- *Section 22 - no person may contract for commercial sexual services from, or be client of, person under 18 years*  
(1) no person may enter into a contract or other arrangement under which a person under 18 years of age is to provide commercial sexual services to or for that person or another person.  
(2) No person may receive commercial sexual services from a person under 18 years of age.
- *Section 23 - offence to breach prohibitions on use in prostitution of persons under 18 years*  
(1) every person who contravenes section 20, section 21, or section 22 commits an offence and is liable on conviction on indictment to imprisonment for a term not exceeding 7 years.  
(2) no person contravenes section 20 merely by providing legal advice, counselling, health advice, or any medical services to a person under 18 years of age.

(3) no person under 18 years of age may be charged as a party to an offence committed on or with that person against this section.

#### *Films, Videos and Publications Classification Act*

Section 123 of the Films, Videos, and Publications Classification Act 1993 prohibits any person making, supplying, or trading an objectionable publication (which includes child pornography). The Censorship Compliance Unit of the Department of Internal Affairs is the primary enforcement agency for all aspects of the Films, Videos, and Publications Classification Act 1993, including the investigation of the distribution of child pornography via the Internet. The Act is enclosed as Annex E.

#### *Crimes Act 1961 and Amendments*

The Act prohibits the sale of any person as a slave and also provides a comprehensive ban on trafficking of slaves. The 2001 Amendment provides a general prohibition on debt bondage and serfdom (section 98). The Amendment also contained sections regarding the procuring for prostitution and created an offence of being a client in act of prostitution by persons under 18 years of age which have since been repealed by the Prostitution Reform Act 2003. Details on the penalties for contravening the Crimes Act and Amendments are provided in Annex Four. The Crimes Act and Amendments are enclosed as Annex F.

#### *Sale of Liquor Act 1989*

Section 161 of this Act regarding Employment of Minors provides that “every person commits an offence and is liable to a fine not exceeding \$2,000 who, being the licensee of any licensed premises, employs any person (other than the spouse of the licensee) who is under the age of 18 years in any capacity in any restricted area on the licensed premises while that area is open for the sale of liquor.”

The provision, however, does not apply to the employment in a restricted area of any person preparing or serving any meal; cleaning, repairing, maintaining, altering or restocking the area of any equipment in the area; or removing or replacing any equipment; or stocktaking; or checking or removing cash. Public bars are an example of what is generally designated as a “restricted area”. The Act is administered by the Ministry of Justice and is enclosed as Annex G.

#### *Minimum employment code*

New Zealand has statutory minimum conditions, which apply to all employees, including children. These include entitlements to:

- Annual and statutory holidays;
- Special leave for sickness, domestic purposes or bereavement (Holidays Act 1981);

- Protection against unlawful deductions from wages (Wages Protection Act 1983); and
- Equal pay for women and men for the same or similar work (Equal Pay Act 1972);
- A right to take advice before entering into an employment relationship (The Employment Relations Act 2000);
- Protections against unfair bargaining, including against taking advantage of the lack of capacity of a person because of their age (Employment Relations Act, 2000);
- Right to bargain collectively (Employment Relations Act, 2000)

### *Employment Relations*

The processes and institutions of the Employment Relations Act produce results that are likely to benefit young people. The Act provides for a range of mediation services, including the provision of information to face-to-face mediated meetings, and adjudication in the Employment Relations Authority.

The Department of Labour has in place systems for the dissemination of information about the Employment Relations Act and minimum employment standards, which assists young people in making them aware of their employment rights. A toll-free number provides information on employment-related matters. In the June 2003 year, approximately 249,000 employment-related enquiries were responded to.

As part of its role in promoting awareness, mediators, labour inspectors and information officers undertake talks on problem resolution services, and employment rights and obligations. In the June 2003 year, over 400 talks were conducted. Often, talks focus on providing information to young people, including talks directed at high schools students, tertiary providers, Citizens Advice Bureaux, industry training providers, workplaces, community representatives, and employers.

Labour inspectors also take a proactive approach when exercising their various statutory powers of investigation and enforcement under the Employment Relations Act, conducting approximately 150 proactive workplace visits and targeted inspections in the June 2003 year, as well as undertaking complaint-based work. The general focus of proactive investigations involves targeting businesses where infringements occur often, such as restaurants and cafes, which also employ a relatively high proportion of younger workers.

### CARE & PROTECTION

#### *Children, Young Persons and Their Families Act 1989*

The Act is the primary piece of legislation relating to the care and protection of children. Children and young people 'in need of care or protection' are defined in section 14 of the Act. They include children and young people who are experiencing (or likely to experience) physical or sexual abuse. The Act is enclosed as Annex H.

The Act includes principles that provide a guide to those working with the Act, which essentially mean that:

- All in care and protection proceedings under the Act, the welfare and interests of the child or young person are the first and most important consideration
- The well-being of the child or young person is linked with the wellbeing of their family
- The child or young person should only be separated from their family as a last resort.

#### *Office of the Commissioner for Children*

The Office was established under the Children, Young Persons and Their Families Act 1989 to:

- Monitor and review policy and practice under the Children, Young Persons and Their Families Act.
- Promote the welfare of children and young people and ensure that their rights are recognised.

The Commissioner can inquire into any matter affecting children and young people in any service or organisation and can investigate matters of child abuse and neglect, youth offending and the actions of the Department of Child, Youth and Family Services.

#### HUMAN RIGHTS

##### *Action Plan for Human Rights*

The Human Rights Commission is in the early development stages of an Action Plan for Human Rights (NZAP). The NZAP will have a strong focus on children's rights and will identify strategies or actions to implement international standards relating to children's rights. The NZAP is currently in an extensive process of baseline research and public engagement.

##### *Action for Child and Youth Development*

The Action for Child and Youth Development brings the work programmes of New Zealand's *Agenda for Children and the Youth Development Strategy Aotearoa* under one umbrella and focuses on improving outcomes for the 0-24 age group.

*New Zealand's Agenda for Children* is a government strategy aimed at improving the lives of New Zealand children. It includes a new 'whole child' approach to child policy and service development and a programme of action for the Government including:

- Promoting the whole child approach
- Increasing Children's Participation
- An End to Child Poverty

- Addressing violence in children's lives with a particular focus on reducing bullying
- Improving Central Government Structures and Processes to Enhance Policy and Service Effectiveness for Children
- Improving Local Government and Community Planning for Children
- Enhancing Information, Research and Research Collaboration relating to Children

The Agenda is mainly for people who develop policies and those who provide services that affect children. The Ministry of Social Development (MSD) has also produced a leaflet "*A whole child approach*" to increase understanding and promote application of the whole child approach within the public service, local government and community groups.

MSD has also developed a practical guide "*Involving Children: A guide to engaging children in decision-making*" for organisations, government departments, community groups and individuals who want to engage children in effective decision-making. The Ministry of Youth Affairs has also developed a companion guide, called "Youth Development Participation Guide: Keepin' It Real".

The *Youth Development Strategy Aotearoa (Ministry of Youth Affairs, 2002)* sets out how government can work with families and communities to support young people to develop the skills and attitudes they need to take part in society. The strategy is guided by six principles which describe youth development as:

- Shaped by the 'big picture' – the wider community and influences on all our lives;
- About young people bring connected – with many social groups
- Based on a consistent strengths based approach – resisting 'risk' factors and enhancing 'protective' factors and skills;
- Happening through quality relationships – being heard and responded to;
- Needing good information – finding and sharing
- Triggered when young people can fully participate – helping to control what happens to them and around them;

The strategy is available at: <http://www.youthaffairs.govt.nz/pag.cfm?i=234>

### *Article 2*

For the purposes of this Convention, the term "child" shall apply to all persons under the age of 18.

### *Article 3*

For the purposes of this Convention, the term "the worst forms of child labour" comprises:

- (a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict;

- (b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;
- (c) the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties;
- (d) work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.

*Please indicate, for each of the clauses (a) to (d), the measures taken to secure the prohibition and elimination of the worst forms of child labour with regard to all persons (girls and boys) under the age of 18.*

New Zealand only ratifies instruments when domestic law, policy and practice fully comply with the provisions of the instrument. The action plans and legislation referred to in Article 1 above prohibit and aim to eliminate all worst forms of child labour in New Zealand. Specifically:

*(a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict:*

Sale and/or trafficking of children is prohibited by the Crimes Act 1961. New Zealand has also ratified the Convention on Protection of Children and Co-operation in Respect of Inter-country Adoptions and the United Nations Convention against Transnational Organised Crime and its accompanying Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (July 2002).

New Zealand recognizes that trafficking has the potential to become a problem due to the growing number of trafficked persons throughout the world and as such child trafficking for sexual purposes is one of the four main activities examined in New Zealand's National Plan of Action against Commercial Sexual Exploitation of Children 'Protecting Our Innocence' (as discussed on page 2 above).

CLOAC is also involved in awareness raising activities on Convention 182 as discussed in Article 6 below.

*(b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;*

Child prostitution is prohibited under the Prostitution Reform Act 2003. Sections 144A and 144C of the Crimes Act 1961, which were enacted in 1995, created the new offences of “Sexual conduct with children outside New Zealand” and “Organising or promoting child sex tours.” Thus far, there have been no convictions under these provisions.

Cabinet has also approved amendments to various pieces of legislation to ensure that New Zealand’s laws comply with the Optional Protocol to

## UNCROC on the Sale of Children, Child Prostitution and Child Pornography.

Estimating the nature and extent of child prostitution in New Zealand is very difficult due to the clandestine nature of the activity. New Zealand's National Plan of Action against Commercial Sexual Exploitation of Children outlines measures being undertaken in New Zealand to prevent child prostitution. In particular ECPAT NZ<sup>1</sup> is currently undertaking research on the extent of commercial sexual exploitation of children in New Zealand. Initial findings have found that child sex work is occurring in country districts, provincial towns and cities.

Child, Youth and Family fund service providers to work with children and young people who may be living or working on the streets. For example Child, Youth and Family fund a collaborative project managed by Waipuna and Christchurch City missions. The project is a Streetwork Project which involves providing social work support for young people including women prostitutes.

The Crimes Act 1961 contains provisions prohibiting sexual offences with a girl (sections 131, 132, 133 and 134) and a boy (sections 140, 140A and 141). The Act also contains provisions prohibiting general rape and unlawful sexual connection under sections 128(2) and 128(3). Penalties for offences against this Act are provided in Annex Four.

Section 123 of the Films, Videos and Publications Classification Act 1993 prohibits any person making, supplying, or trading an objectionable publication (which includes child pornography). Penalties for offences against this Act are provided in Annex Four. While child pornography (mainly of an internet/based nature) appears to be a growing problem in New Zealand, the problem appears to be associated with the possession and distribution of pornography that has been imported, as opposed to the production of child pornography within New Zealand.

- The Censorship Compliance Unit of the Department of Internal Affairs is the primary enforcement agency for all aspects of the Films, Videos and Publications Classification Act 1993 including investigation of the distribution of child pornography via the Internet. 147 convictions under the Act have been secured relating to objectionable material (predominantly for child pornography) since the Censorship Compliance Unit was established in 1996.
- The Department of Internal Affairs also produces a number of pamphlets about the internet, censorship and child safety which are distributed to school, universities and libraries. This information is also available on the Department's website along with a draft Code of Conduct that businesses, schools and universities can implement to clearly set out what is considered appropriate use of the internet.

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<sup>1</sup> End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes

- In 2003 the Government Administration Committee completed a wide-ranging inquiry into the operation of the Films, Videos, and Publications Classification Act 1993. The Government is expected to make decisions on the select committee's recommendations shortly.

In relation to its work on the Optional Protocol to UNCROC on the Sale of Children, Child Prostitution and Child Pornography, the Ministry of Justice has now completed a review of the penalties for objectionable material (including child pornography) and examined the adequacy of current offence provisions and enforcement powers. The Minister of Justice has announced his intention to substantially increase the penalties for producing, trading and possessing objectionable material (including child pornography) with the intention of introducing a Bill later this year to effect these changes. The proposed increases will bring New Zealand's penalties more into line with those of the United Kingdom and Canada, which both have maximum sentences of 10 years imprisonment for producing or trading in child pornography. Cabinet is expected to make decisions on these proposals in August 2003.

The "Keeping Ourselves Safe" programme is also in place in primary and secondary schools to assist students understanding of New Zealand legislation relating to abuse and harassment and factors that perpetuate violence in society. The programme incorporates information on the protections offered by Convention 182 and is administered by the New Zealand Police Youth Education Service and introduced by Police Youth Education officers to schools before being delivered by classroom teachers. It consists of different programmes for students from junior primary school to senior secondary school, which aim to provide children and young people with the skills to cope with different situations which might involve abuse.

as CLOAC is also involved in awareness raising activities on Convention 182 discussed in Article 6 below.

*(c) the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties;*

In the case of all illegal activities, section 66 of the Crimes Act makes it an offence to incite or counsel a person, including children, to commit an offence. See (a) and (b) above for measures being undertaken to secure the prohibition and elimination of the worst forms of child labour in New Zealand.

*(d) work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.*

Various legislation discussed under Article 1 prohibits work that is likely to harm the health, safety or morals of children.

To date there have been no prosecutions under the Health and Safety in Employment Amendment Act for employing young people in work which is likely to harm their health or safety. As discussed under Article 1, the Department of Labour also disseminates information about minimum employment standards, and takes an active role in promoting awareness about employment standards through its website (<http://www.dol.govt.nz>), visits and seminars.

New Zealand has also ratified the Optional Protocol to the United Nations Convention on the Rights of the Child on the Involvement of Children in Armed Conflict in 2001. In order to implement the Optional Protocol, the Defence Act 1990 was amended to prohibit the direct participation of children under 18 years of age in active duties. At the time of ratification, New Zealand declared a voluntary recruitment minimum age of 17 years and outlined the following safeguards to ensure that recruitment is not forced or coerced:

- New Zealand Defence Force recruitment procedures require that the persons responsible for recruitment must ensure that such recruitment is genuinely voluntary;
- Legislative requirements that the consent of parents or guardians is obtained for enlistment where such consent is necessary under New Zealand law. The parent or guardian must also acknowledge that the person enlisting will be liable for active service after reaching the age of 18 years;
- A detailed and informative enlistment process, which ensures that all persons are fully informed of the duties involved in military service prior to taking an oath of allegiance; and
- A recruiting procedure, which requires enlistees to provide their birth certificate as reliable proof of age.

CLOAC is also involved in awareness raising activities on Convention 182 as discussed in Article 6 below.

#### *Article 4*

1. The types of work referred to under Article 3(d) shall be determined by national laws or regulations or by the competent authority, after consultation with the organizations of employers and workers concerned, taking into consideration relevant international standards, in particular Paragraphs 3 and 4 of the Worst Forms of Child Labour Recommendation, 1999.
2. The competent authority, after consultation with the organizations of employers and workers concerned, shall identify where the types of work so determined exist.

3. The list of the types of work determined under paragraph 1 of this Article shall be periodically examined and revised as necessary, in consultation with the organizations of employers and workers concerned.

*Please indicate the types of work determined in accordance with paragraph 1. Please communicate the relevant text.*

Types of work which are likely to harm the health, safety or morals of children are

defined in legislation as referred to in Article 1 above. For example:

- The Prostitution Reform Act prohibits anyone assisting persons under 18 years in providing commercial sexual services; it prohibits anyone receiving earnings from commercial sexual services provided by persons under 18 years; and it prohibits anyone contracting for commercial sexual services from, or being a client of, a person under aged 18 years;
- The Crimes Act 1961 and Amendments prohibit the sale of any person as a slave and also provides a comprehensive ban on trafficking of slaves;
- The Sale of Liquor Act 1989 prohibits the employment of those under the age of 18 in any capacity in any restricted area on a licensed premises while that area is open for the sale of liquor;
- Regulations 54 to 58 of the Health and Safety in Employment Regulations 1995 restrict the employment of young people where the work taking place is likely to harm their health and safety;
  - Regulation 54 prohibits the employment of people under 15 years of age in workplaces where manufacturing, forestry, or construction work is taking place, or in any other area where the work taking place is likely to harm their health and safety. An exception is provided for shops and offices attached to such places.
  - Regulation 55 prohibits employees under 15 years of age being required to lift any weight or perform any other task likely to be injurious their health. Regulation 56 prohibits people under 15 years of age being employed to work with machinery. Regulation 57 prohibits people under 15 years of age being employed to drive or ride on any heavy vehicle, including tractors and implements being towed by vehicles.
  - Regulation 58 prohibits employment of people less than 16 years of age between the hours of 10 pm and 6 am. Regulations 59 to 61 cover similar situations to some of those above, but restrict young people other than employees.

*Please indicate the measures taken to identify where the types of work so determined exist.*

*Please indicate how the list of the types of work determined under paragraph 1 of this Article has been periodically examined. Please provide any revised list.*

Convictions and prosecutions assist in identifying types of work which are likely to harm the health, safety and moral of children.

The Ministry of Justice publishes a report annual on Convictions & Sentencing of Offenders in New Zealand (attached as Annex Two).

Health and safety inspectors employed by the Department of Labour ascertain and ensure compliance with the Health and Safety in Employment Act 1992. As discussed above to date there have been no prosecutions under the Act for employing young people in work that is likely to harm their health or safety.

Specific reviews of such convictions are undertaken from time to time as required, for example, a review is currently being undertaken on sexual crimes under the Crimes Act 1961.

The types of work determined in the Health and Safety in Employment Regulations 1995, resulted from a revision of previous provisions relating to minimum ages for certain types of work and working conditions contained in the Factories and Commercial Premises Act 1981.

*Please indicate the consultations which have been held with the employers' and workers' organizations in accordance with the provisions of this Article.*

Business New Zealand (Business NZ) and the New Zealand Council of Trade Unions (NZCTU) were consulted during the process of ratifying Convention 182. Both organizations were consulted on the establishment of CLOAC and have been updated on the progress of CLOAC at tripartite meetings. No issues relating to the types of work under paragraph 1 of this Article have been raised by the social partners in these fora.

#### *Article 5*

Each Member shall, after consultation with employers' and workers' organizations, establish or designate appropriate mechanisms to monitor the implementation of the provisions giving effect to this Convention.

*Please indicate the mechanisms established or designated, and provide information on their functioning, including any extract of reports or documents. Please also indicate the consultations which have been held with the employers' and workers' organizations in accordance with the provisions of this Article.*

As discussed in Article 1 above, in 2001 the Government formed the Child Labour Officials Advisory Committee (CLOAC) to raise public awareness and understanding of Convention 182 and encourage initiatives to identify and eliminate the worst forms of child labour in New Zealand.

CLOAC was formed following consultation with Business NZ and the NZCTU. As discussed above both organizations are consulted on the progress of CLOAC at tripartite meetings. Recently the social partners were invited to a partnership meeting for the purpose of information sharing and identifying areas where CLOAC members and interested agencies may be able to work together to implement Convention 182.

#### *Article 6*

1. Each Member shall design and implement programmes of action to eliminate as a priority the worst forms of child labour.
2. Such programmes of action shall be designed and implemented in consultation with relevant government institutions and employers' and workers' organizations, taking into consideration the views of other concerned groups as appropriate.

*Please indicate the programmes of action and provide information on their implementation.*

In addition to the action plans and strategies discussed under Article One and Three, the Child Labour Officials Advisory Committee (CLOAC) is undertaking activities to raise public awareness about Convention 182. A CLOAC workplan for the period ending December 2002 is attached as Annex Three. The social partners were consulted on the development of this workplan. CLOAC is now in the process of updating this workplan to guide future activity, following a partnership meeting with interested agencies. To date activities that CLOAC has been involved in include:

- Development of a website on Convention 182 (<http://www.dol.govt.nz/child-labour.asp>) on the Department of Labour website and CLOAC members are providing links from their websites through to this page
- Distribution of 100 copies of 'Eliminating the Worst Forms of Child Labour' through its contacts network;
- Publicising Convention 182 in the Ministry of Foreign Affairs Human Rights Division newsletter, which provides an update on international human rights issues in which New Zealand is engaged. The newsletter is distributed every six months to civil society and other departments.

- Incorporation of information on the protections offered by Convention 182 in the NZ Police 'Keeping Ourselves Safe' programme run through schools in New Zealand, as discussed under Article 3 above);
- Writing to Non-Government Agencies in February 2003 on Convention 182 and inviting agencies to provide data on people aged 18 years or under involved in one of the worst forms of child labour in New Zealand as well as information on their experience of programmes of action and rehabilitation undertaken to assist young people who have experience of worst forms of child labour. No episodes of worst forms of child labour were reported.
- Developing information sharing and consultation mechanisms with social partners, other interested agencies (eg Human Rights Commission, Office of the Commissioner for Children and other non-government agencies) through six-monthly meetings.

New Zealand has also actively promoted the ratification of ILO 182 and the elimination of harmful child labour in international human rights fora, such as the Commission on Human Rights and UN General Assembly Third Committee, as well as during other international conferences, such as the UN Special Session on Children, held in May 2002, and the World Summit on Sustainable Development, September 2002.

In particular NZAID funded IPEC workshop for selected Pacific States held in Fiji in November 2002 on Ratification/Implementation and reporting on Convention 182.

*Please indicate the consultations which have been held with the employers' and workers' organizations in accordance with the provisions of this Article. Please also indicate the extent to which the views of other concerned groups have been taken into consideration.*

As discussed under Article 6 above both organizations have been consulted on the CLOAC workplan and progress of CLOAC at tripartite meetings as well as the Human Rights Commission and Office of the Commissioner for Children.

#### *Article 7*

1. Each Member shall take all necessary measures to ensure the effective implementation and enforcement of the provisions giving effect to this Convention including the provision and application of penal sanctions or, as appropriate, other sanctions.
2. Each Member shall, taking into account the importance of education in eliminating child labour, take effective and time-bound measures to:
  - (a) prevent the engagement of children in the worst forms of child labour;

- (b) provide the necessary and appropriate direct assistance for the removal of children from the worst forms of child labour and for their rehabilitation and social integration;
  - (c) ensure access to free basic education, and, wherever possible and appropriate, vocational training, for all children removed from the worst forms of child labour;
  - (d) identify and reach out to children at special risk; and
  - (e) take account of the special situation of girls.
3. Each Member shall designate the competent authority responsible for the implementation of the provisions giving effect to this Convention.

*Please indicate the measures taken in accordance with paragraph 1, including the provision of penal or other sanctions and their actual application.*

The table attached as Annex Four sets out the penalties relating to worst forms of child labour available under the Crimes Act, Prostitution Reform Act and Films, Videos and Publications Classification Act. It is not possible to provide detailed information on how they are applied because the penalties do not generally differentiate between children and other victims. The Annual Report on Conviction and Sentencing of Offenders in New Zealand however provides information on convictions every year (see Annex Two).

Section 49 of the Health and Safety in Employment Act 1992 allows for a maximum fine of \$500,000 and/or imprisonment for not more than two years for offences where a person or business knew that an action or failure to act was reasonably likely to cause serious harm. Section 50 provides for a maximum fine of \$250,000 for other offences, including where the person fails to comply with the regulations restricting the employment of young people in work which is likely to harm their health or safety. To date there have been no prosecutions under the Act for employing young people in work which is likely to harm their health or safety.

*Please indicate the measures taken with regard to each of the clauses (a) to (e) of paragraph 2. If any of the measures are time-bound, please specify the time frame.*

- (a) As previously discussed, a number of initiatives are underway to eliminate worst forms of child labour. Details are provided in Articles 1 and 3 above.
- (b) If a child or young person's employment activity is detrimental to their wellbeing (e.g. prostitution) Child Youth and Family and the Police are able to remove a child or young person under warrant (section 39-45 Children, Young Persons and their Families Act 1989) and the Family Court may place them in the custody of the Director General of Child Youth and Family. Child Youth and Family fund a variety of programmes depending on the needs that the child and their family have including parenting programmes, family violence prevention and responding, counselling, after school care programmes, budgeting services and residential programmes.

Departmental Medical Practitioners employed by the Department of Labour also have the power under section 37 of the Health and Safety in Employment

Act 1992 to suspend employees. They may do so if satisfied on reasonable grounds that an employee has been or is exposed to a significant hazard while at work, or has been so harmed by exposure that they should not continued to be exposed to the hazard.

- (c) As discussed in Article 1 above, the Education Act requires children to attend school until 16 years of age. Child Youth and Family also ensure that children and young people who are in the custody and/or guardianship of the Chief Executive attend school or receive appropriate alternative educational or vocational services.
- (d) It is a Child Youth and Family role to investigate and assess any notification received about any child or young person who may have a care and protection need with a particular focus on addressing a range of social needs including stopping abuse and neglect. Child Youth and Family also fund Youthline to provide support to young people who may be at risk.
- (e) special situation of girls

The initiatives discussed above are aimed at all children, including girls.

*Please indicate the authority or authorities designated in accordance with paragraph 3 responsible for the implementation of the provisions giving effect to this Convention, and by what methods such implementation is supervised.*

The lead agency for each initiative or the administration of legislation is the responsible authority for the purposes of implementation. The Department of Labour coordinates with the members of CLOAC to develop initiatives to raise public awareness about Convention 182. CLOAC is made up of officials from:

- Department of Labour
- Child Youth and Family
- Ministry of Foreign Affairs and Trade
- Ministry of Justice
- Ministry of Pacific Island Affairs
- Ministry of Social Development
- Ministry of Youth Affairs
- NZ Police
- Te Puni Kokiri (Ministry of Maori Affairs)

#### *Article 8*

Members shall take appropriate steps to assist one another in giving effect to the provisions of this Convention through enhanced international cooperation and/or assistance including support for social and economic development, poverty eradication programmes and universal education.

*Please indicate any steps taken in accordance with the provision of this Article.*

#### **Background**

NZAID was established on 1 July 2002, as a semi autonomous agency within the Ministry of Foreign Affairs and Trade. Since its inception, a considerable amount of work has been undertaken to define NZAID's policy framework in line with Cabinet decisions taken by the New Zealand Government in 2001 on the shape and direction of the New Zealand ODA programme.

The central focus of the Agency's work and its development activities is poverty elimination, through sustainable and equitable development, for the purpose of achieving a safe and just world free of poverty. Poverty is defined as Absolute Poverty (failure to meet basic needs); Poverty of Opportunity (eg: access to land, education); and Vulnerability to Poverty (eg: natural disasters).

The Policy framework and activities is orientated around and consistent with the United Nations Millennium Development Goals (MDGs) and other international development targets. Human rights, gender equity and the environment are newly mainstreamed into New Zealand's aid programme.

The core geographical focus of NZAID continues to be the Pacific. This recognises New Zealand's proximity to remote, resource-poor and vulnerable islands. NZAID continues to work in parts of Asia (the current second major geographical focus), where child labour issues are prominent.

Education assistance, particularly at the primary level, continues to be a core part of NZAID's work, comprising a quarter of the total aid budget.

### **Specific programming support**

- Pacific  
NZAID funded IPEC workshop for selected Pacific States held in Fiji in November 2002 on *Ratification/Implementation and reporting on Convention 182*
- Asia  
Christian World Service  
To support female children and adolescents who are at serious risk in the streets and slums and to lobby for children's rights, including child labour rights
- Indonesia  
Christian World Service  
To organise communities in 35 regions for effective social action, protection of human rights and child rights in sustainable agriculture and food security.
- Global  
Save the Children Fund  
To reduce the incidence and exploitative forms of child work through increased participation of civil society.
- Sri Lanka

Christian World Service

To improve the social, economic, physical and legal position of women and child workers in 4 Free Trade Zones and to enable the women workers to play a decisive role in the trade unions and other forms of worker organisation.

- Samoa  
ECPAT  
To raise awareness about and to protect Samoan children from sexual exploitation, including through commercial sex work.
- Global  
Significant annual contributions to UNDP, UNICEF, ILO, OHCHR and other international organisations which support the aims and objectives of Convention 182, and promote and protect internationally agreed child labour standards.

**III. Please state whether courts of law or other tribunals have given decisions involving questions of principle relating to the application of the Convention. If so, please supply the text of these decisions.**

None to date.

**IV. Please give a general appreciation of the manner in which the Convention is applied in your country. Please indicate any practical difficulties encountered in the application of the Convention, or any factors which may have prevented or delayed action against the worst forms of child labour. If your country has received any assistance or advice under ILO technical cooperation projects, such as the International Programme on the Elimination of Child Labour (IPEC), please indicate the measures taken accordingly.**

The main practical difficulty in the application of Convention 182 in New Zealand is the clandestine nature of child labour. New Zealand legislation prohibits all worst forms of child labour however anecdotal research has identified that, for example, underage prostitution exists in some areas. The difficulty lies in identifying the existence and extent of worst forms of child labour. As discussed in Article 6, CLOAC has made efforts to obtain data on people aged 18 years or under involved in one of the worst forms of child labour in New Zealand. However no episodes of worst forms of child labour were reported. It is hoped that the research being undertaken by ECPAT will provide further information on the extent of such activity (discussed in Article 3 above).

**V. In so far as the information in question has not already been supplied in connection with other questions in this form -- please supply copies or extracts from official documents including inspection reports, studies and inquiries, and, where such statistics exist, information on the nature, extent and trends of the worst forms of child labour, the number of children covered by the measures giving effect to the Convention, the number and nature of**

**infringements reported, penal sanctions applied, etc. To the extent possible, all information provided should be disaggregated by sex.**

See responses to Articles 1 to 8 above.

**VI. Please indicate the representative organizations of employers and workers to which copies of the present report have been communicated in accordance with article 23, paragraph 2, of the Constitution of the International Labour Organization. If copies of the report have not been communicated to representative organizations of employers and/or workers, or if they have been communicated to bodies other than such organizations, please supply information on any particular circumstances existing in your country which explain the procedure followed.**

Business New Zealand  
New Zealand Council of Trade Unions.

**VII. Please indicate whether you have received from the organizations of employers or workers concerned any observations, either of a general kind or in connection with the present or the previous report, regarding the practical application of the provisions of the Convention. If so, please communicate a copy of the observations received, together with any comments that you consider useful.**

## **Convention 182 List of Attachments**

- Annex A Prostitution Reform Act 2003
- Annex B Education Act 1989
- Annex C Health and Safety in Employment Act 1992
- Annex D Health and Safety Regulations 1995
- Annex E Films, Videos and Publications Classification Act 1993
- Annex F Crimes Act 1961 including Amendments
- Annex G Sale of Liquor Act 1989
- Annex H Children, Young Persons and Their Families Act 1989
  
- Annex 1 *'Protecting Our Innocence – New Zealand's National Plan of Action Against the Commercial Sexual Exploitation of Children'*, December 2001, Ministry of Justice.
  
- Annex 2 *'Conviction and Sentencing of Offenders in New Zealand 1992-2001'*, Ministry of Justice.
  
- Annex 3 CLOAC Workplan to December 2002.
  
- Annex 4 Penalties for Contraventions of Crimes Act 1961 and Amendments, Prostitution Reform Act 2003 and Films, Videos and Publications Classification Act 1993.