

Submission template

A New Zealand Income Insurance Scheme

This is the submission template for the discussion document, *A New Zealand Income Insurance Scheme*.

The Ministry of Business, Innovation and Employment (MBIE), on behalf of the Government, Business New Zealand and the New Zealand Council of Trade Unions, seeks your written submission on the matters raised in the discussion document by **5pm on 26 April 2022**.

Your submission could be made public

The information provided in submissions will be used to inform policy development on the proposed income insurance scheme, including how it could be improved and how it could affect different groups. We may contact submitters directly if we require clarification of any matters in submissions.

The *Privacy Act 2020* applies to submissions and responses. Any personal information you supply to MBIE in making a submission will only be used for the purpose of assisting in the development of policy advice as part of this review. When businesses or organisations make a submission, we will consider that you have consented to the content being included in any summary of submissions unless you clearly state otherwise. If your submission contains any information that is confidential or that you do not want published, you can say this in your submission. Please clearly indicate in your cover letter or email with your submission if you do not wish your name, or any other personal information, to be included in any summary of submissions that may be published.

Submissions and responses may be subject to requests for information under the *Official Information Act 1982*. Please clearly indicate in your cover letter or email with your submission if you have any objection to the release of any information in your submission, and which parts you consider should be withheld, together with the reasons for withholding the information. Your views will be taken into account when responding to requests under the *Official Information Act 1982*. Any decision to withhold information requested under the *Official Information Act 1982* can be reviewed by the Ombudsman.

How to make a submission

Please send your written submission on the options and questions in this consultation document by **5pm on 26 April 2022**. You can make your submission (preferably using this submission template) as follows:

1. Include your name, the name of your organisation (if applicable), and contact details. We may contact submitters directly if we require clarification of any matters in submissions.
2. Your submission may respond to any or all of the questions in the consultation paper. Where possible, please include information or evidence to support your views. We also encourage your input on any other relevant aspects of the income insurance scheme in the "Other comments" section.
3. Sending your submission:
 - a. Attach as a Microsoft Word document or searchable PDF and email to:

incomeinsurance@mbie.govt.nz (preferred), or

b. Mail your submission to:

Social Unemployment Insurance Tripartite Working Group
Ministry of Business, Innovation and Employment
PO Box 1473
Wellington 6145

If you have any questions on the submissions process, please contact incomeinsurance@mbie.govt.nz.

Submission on A New Zealand Income Insurance Scheme

Your name and organisation

Name	David Ford
Organisation (if applicable)	Privacy of natural persons
Contact details	Privacy of natural persons

Responses to consultation document questions

Chapter 4 – How a new income insurance scheme could achieve our objectives (Pg 30-48)

The Forum considers the benefits of income insurance for job loss due to displacement or health conditions would outweigh its costs.

1 *Do you agree New Zealand should introduce an income insurance scheme for displacement and loss of work due to health conditions or disabilities?*

Yes, I do agree. I have a reservation around incapacity due to Mental Health Disorders. In particular, as we know mental health is the number one cause of unplanned absence, and I am sure it has a prominent cause for job loss. My concern is that a person might qualify for the IIP due to say the onset of depression, and the intervention to assist with a return to some employment (vocational independence) maybe so delayed and ineffective that the person will remain incapacitated beyond the maximum period for IIP that they will then go onto a state disability benefit anyway for a prolonged period (i.e. the vocational assistance maybe timely, but the availability of clinical providers may not be)

Given the numbers are higher than cardiac, respiratory or musculoskeletal disorders, redundancy etc (not considering pandemic or natural disasters) I am concerned on how this may impact on the IIS, it may prove costly, so much so that it might start to cross over the financial cost of the set up and maintenance of IIS.

Broadly speaking, I fully agree that the financial and social impact on job loss for whatever reason has a knock-on effect on the local and national economy. A proactive and meaningful approach by government should prove to be positive. So long as there is a dynamic and sincere approach to provide effective & timely support. New Zealanders are sceptical of government schemes and the IIS needs to demonstrate it is just not another entity that has poor communication ability, inability to maintain promises and outcome success is the exception.

Chapter 5 – Honouring Te Tiriti o Waitangi (Pg 49-51)

Kawanatanga – Good governance and partnership

2 *How can we ensure the proposed income insurance scheme honours Te Tiriti o Waitangi?*

N/A

3 *What are the opportunities for partnership and Māori representation in the proposed income insurance scheme's governance and operations?*

NA

4 *How can we ensure equity of access, participation, and outcomes for Māori in the proposed income insurance scheme?*

NA

5 *How can we reflect and embed te ao Māori in the proposed income insurance scheme's design?*

NA

Chapter 6 – Coverage for displaced workers (Pg 53-72)

Displacement and standard employment (full- and part-time permanent employees)

6 *Do you agree with defining displacement as the involuntary loss of work due to the disestablishment of a job?*

Yes, this is a must inclusion. In particular to set about a considered approach for the displacement (redundancy) upfront, also of course there is financial and vocational support. Termination due to medical reasons would fall under the IIS anyway as it would be a disability, mental or medical.

7 *Do you agree with excluding poor performance and gross misconduct as reasons for claiming insurance?*

Fully agree. Otherwise there would be “wobble room” for perverse behaviour with perhaps bother parties (employee and employer)

8 *Do you agree with excluding resignation as a reason for claiming insurance?*

Yes, this is a personal choice, a life choice. If the reason is due to the onset of illness or disability, then seems might meet criteria under IIS. There would need to be some level of investigation as to the circumstance behind the resignation. (e.g., neurological disorder for 12 months, decided to resign as not coping)

Coverage provided for complete job loss only

9 *Do you agree that income insurance should cover only the complete loss of a job, and cover situations where a person loses only one of several jobs that they hold?*

IIS should take into consideration all employments held. If the scenario is considered and meets criteria (incapacity rational) , the loss of earnings, would be assessed and compensation should meet the short fall (@80%)

10 *Do you agree that insurance would be payable only where income loss was greater than a minimum threshold, such as a 20 percent loss of total earnings, counting income from all of their jobs?*

Yes, the current situation (ACC weekly compensation) where any greater than 20% reduction in earnings is assessed and compensated - for all earnings in all employment held at date of incapacity remains to be fair and reasonable. This would be suitable for IIS scenarios.

Displacement and non-standard employment – a principle-based approach

11 *Do you agree that it is important to provide income insurance coverage to non-standard workers, where practical?*

Yes, a person has an earning pattern for a reason – those who are made redundant or have a new disability would also require IIS coverage, there is no reason for exclusion. There would be significant push back and if challenged in district or high court, I am sure a judge would have a view for inclusion for all earners despite the pattern of work. But there would need to be a similar “earner” consideration and extension of “earner status” similar to the AC Act 2001. This has been filtered through the courts over the years and has reached a satisfactory view by most.

12 *Do you agree that income insurance should cover the ‘loss of reasonably anticipated income’?*

Not sure. If anticipated income can be demonstrated as being factual, then perhaps. Would need a panel to review these as they arise.

13 *Do you agree that income insurance entitlements should be based on an ‘established pattern of work’?*

Yes, for example “meat workers” who are seasonal and have established multiple seasons, or the employer is firm on the re-hire. On Hire employees will require deeper consideration, will need criteria to use for the many variables that would occur.

Coverage provided for fixed-term and seasonal employees

14 *Do you agree that income insurance should cover fixed-term and seasonal employees if they are displaced before the end of an employment agreement, with the duration of the payment running to the scheduled end of the employment agreement, or the maximum insurance entitlement duration, whichever is shorter?*

Fixed term and seasonal employees often rely on income for a period longer than the season end or term end. But not all, students for example. I would suggest that there is a process understand and verify the employment beyond the season/term and determine ongoing

entitlement to IIS payments. This needs to be robust. Fairness is the key here, and a person who's fixed term period will expire in 3 months, but there is already some level of demonstratable evidence to suggest it will carry over, or a new contract somewhere else to have continued IIS is reasonable, compared to a student who works over xmas and was due to return to Uni with no earnings in the pipeline.

15 *Do you agree that income insurance should cover fixed-term and seasonal employees, where their employment agreements are not renewed, and they can show a regular pattern of work and reasonable expectation of future income?*

Yes, as previous answer

Coverage provided for casual employees

16 *Do you agree that income insurance should cover casual employees who can show a regular pattern of work with an employer and a reasonable expectation of future income?*

Yes, as per Q 14 answer

17 *How would these design choices work in practice? What risks can you see with the approach to establishing a regular pattern of work?*

Firstly, there needs to be clarity on what will be considered as a "regular pattern". The AC Act 2001 seems to have a handle on this and again works for ACC compensation purposes. Verifying the pattern then becomes process and BAU. There often are variables, which don't quite meet the criteria neatly, so a panel or technical advice would be needed to mitigate the risk.

Coverage for self-employed workers

18 *What risks do you see with covering, or not covering, people in self-employment?*

People who are self employed should be covered, broadly speaking. Establishing if they are financial or have earnings will need to be part of the process. Again, similar to the AC Act 2001 in how we establish entitlement for SE.

19 *Are there some groups of self-employed who should and should not be covered?*

NA

20 *How can we practically distinguish between contractors who resemble employees, and those with a high degree of independence?*

NA

21

Because a self-employed person cannot technically be made redundant, what types of events would be appropriate 'triggers' for insurance payments?

Natural Disasters, pandemic, onset of illness or mental health

22

How do you think the levy should be collected from self-employed workers?

NA

A modest minimum contribution period

23

Do you agree with the proposed minimum contribution period of six months over a period of 18 months preceding the claim?

Yes, this allows a decent level of financial control to promote the sustainability of the scheme

Limits on subsequent claims

24

Do you agree limits should be placed on the number claims people can make?

Yes

25

Do you agree with limiting claims to a total of six months within an 18-month period?

yes

This seems reasonable, room for discussion with unions, GP's and the likes here.

26

Could the risks associated with a low contribution history be managed in other ways?

What is important here is that New Zealanders feel valued. Their situation will be very real and distressing. If they hear that their entitlements vary due to a "low contribution" there is room for media coverage of the unfairness factor. Keep it simple (i.e. 6 months minimum) people will get to know this as the standard.

Coverage for New Zealand citizens and residents

27 Do you agree with limiting coverage of the proposed income insurance scheme to New Zealand citizens and residents?

Yes. New permanent residents will need minimum of 6 months in previous 18.

28 To ensure New Zealand workers are not disadvantaged by lower cost international workers, do you agree that working holiday makers, international students and temporary work visa holders – and their employers – should contribute to the proposed income insurance scheme's costs?

Yes agreed, this is the bi-product of the IIS for the employer (i.e. the potential of cheaper workers if they don't contribute)

Chapter 7 – Entitlements for displaced workers (Pg 73-95)

Income caps and income replacement rates that match the accident compensation scheme

29 Do you agree with a replacement rate set at 80 percent?

Yes

30 Do you agree with a cap on insurable (and leviable) income set at the same rate as the accident compensation scheme (currently \$130,911)?

Yes

Only personal exertion income would abate (reduce) insurance entitlements

31 Do you agree that only the insurance claimant's personal exertion income should affect their insurance entitlements?

Yes

32 Do you agree that income insurance should have individualised entitlement, meaning a partner's income would not affect the rate payable?

Yes, a family would have a household income for a reason.

Abatement rates would ensure a claimant is not financially better off as a result of their loss of work

33 Do you agree that someone should be able to earn some income from paid employment before it affects their entitlements to income insurance?

Yes, perhaps the 20%, and then deducted dollar for dollar, when earnings and IIS payment combined reach the 100 rate.

34

Do you agree that insurance should abate 'dollar for dollar' when earned income and insurance combined reach 100 percent of previous income?

As above

Insurance would generally be treated as income, to determine eligibility for welfare and student support

35

Do you agree that insurance should be treated as income for assessing eligibility for income support such as main benefits and Working for Families tax credits and student support?

Yes

36

Given the purpose of the In-Work Tax Credit and Minimum Family Tax Credit in encouraging people into employment and helping with in-work costs, do you agree that income insurance claimants would not be eligible for these tax credits?

Yes

Insurance claimants could also receive New Zealand Superannuation or the Veteran's Pension

37

Do you agree that income insurance claimants could also receive New Zealand Superannuation or the Veteran's Pension?

Yes

38

Do you think a limit should be placed on the amount of time someone can receive New Zealand Superannuation or the Veteran's pension and income insurance?

Fully agree

Where eligible, insurance claimants could choose whether to access Paid Parental Leave or income insurance and may receive both sequentially

39

Do you agree that income insurance and Paid Parental Leave could be accessed sequentially but not at the same time?

Agreed, not at the same time, perhaps the greater amount of the two is provided.

Insurance claimants could also receive ACC weekly compensation where it covers a different income loss

40 *Do you agree that claimants should be able receive both ACC weekly compensation and income insurance at the same time for differing income loss subject to independently meeting the eligibility criteria for both?*

No, not at the same time.

If a person is in receipt of ACC w/c this is 80% of the pre-incapacity earnings from employments held at the time of incapacity. If a person is made redundant from that employment during the period of ACC entitlement, I am not sure IIS payments should be paid, they are already being compensated by the ACC scheme. However if their entitlement ceases from ACC (as they are fit to return to their pre-injury role but made redundant), then perhaps to transfer to ISS for a short period.

A sufficient base entitlement period

41 *Do you agree with a base insurance entitlement length of six months, plus a four-week bridging payment paid by the employer?*

This seems fair, I don't believe it is healthy for a person to feel they have say 12 months of IIS, this might prove to promote a "disability mentality". Six months is sufficient time for most to focus on a goal. A goal is not achieved however, without a process and support to success. This is where IIS needs to be dynamic and unique. Providers will need to understand that there is a timeframe for an outcome, again 12 months might promote certain behavior.

42 *Would you support a longer or shorter length of base insurance entitlement?*

Six seems adequate

Extending the maximum period in specified circumstances

43 *Do you think the scheme should allow extensions to the base period of income insurance entitlements for training or vocational rehabilitation?*

There could be some exceptions – for example where a person is at the tail end of their vocational pathway with IIS, but a further 4 weeks may be needed to achieve a robust and sustainable outcome. Panel needed for extension decision.

Enhancing the income insurance scheme with notice periods

44 *Do you agree that employers should give at least four weeks' notice to employees, and the insurer, before redundancy takes effect?*

Yes

Avoiding unnecessary redundancies

45

Do you agree that employers should pay former workers for the initial period of unemployment for four weeks?

Yes, if reimbursed. Employers will protest otherwise.

Question – there is often termination payments (e.g. 4 weeks of annual leave, or redundancy payment). Will the person also get 4 weeks of payment above and beyond, or is this assessed individually?

46

Should bridging payments be applied to all workers, including those not eligible for income insurance?

Perhaps.

47

Should the income insurance scheme finance bridging payments in circumstances where the payments are not forthcoming from employers, and refund employers for bridging payments if workers find work within this period?

48

Do you consider that stronger integrity measures are necessary to manage the risk of spurious claims to the income insurance scheme?

Yes

Chapter 8 – Coverage and entitlements for loss of work due to health conditions or disabilities (Pg 96-112)

No restrictions on the types of conditions covered by the income insurance scheme

49

Do you agree there should be no restrictions on the types of conditions covered by the scheme?

There should be a clear table of conditions that are considered for entitlements/cover.

All those that are a registered disability for example to be included.

Workplace stress, not included (unless there is a diagnosed mental health disorder by a relevant discipline)

Etc...

No restrictions on the working arrangements covered by the scheme

Do you agree that all work arrangements should be covered (assuming other eligibility criteria are met)?

yes

Coverage for loss of at least 50 percent of capacity to work, for at least four weeks

51 *Should the scheme cover partial loss of earnings due to a health condition or disability reducing work capacity?*

Yes

52 *If partial loss is to be covered, do you agree claimants should have at least a 50 percent reduction of capacity to work caused by a health condition or disability and that reduction is expected to last for at least four working weeks?*

Yes

Claimants' medical practitioners would assess work capacity, with final eligibility assessed by the scheme administrator

53 *Do you agree that the claimants' health practitioner should be main the assessor of work capacity?*

Yes – but perhaps a rapid additional source to assist with matters such as mental health or the likes of fibromyalgia (if included)

54 *Do you agree that, where appropriate, employers could provide supporting information to inform the claimant's work capacity assessment process?*

Yes

Employers would remain responsible for taking reasonable steps to support an employee to continue working


55 *Are the current requirements on employers to make workplace changes sufficient to allow health condition and disability claimants to return to their regular employment (or alternative work)?*

No, this area needs massive improvement and support – the employer is extremely influential in their workers physical and mental capacity to remain at work. But 60% of employers have minimal comprehension on how to manage short term worker disability, or long-term incapacity.

56 *How could employers be supported to help workers with health conditions or disabilities to remain in or return to work?*

This is a huge topic, but here are some headings:

- Overall culture and senior level understanding of health, disability and workplace management
- Policy and strategy
- Leadership training (especially supervisors)

- 
- Recruitment (right people, right culture)
 - Continuous improvement, employer and as a **nation**
-

Employers would be expected to make reasonable efforts to keep a job open where a return to work within six months is likely

57 *Where an employee must stop work entirely because of a health condition or disability, do you think employers should be expected to keep a job open and help with vocational rehabilitation where a reasonable prognosis is made of return to work within six months?*

Excellent idea, but hard to influence an employer to participate. Don't foresee as impossible. But certainly a challenge.

58 *Should this be a statutory requirement placed on employers or an expectation?*

I think this would be a "sticking point" with about ¾ of the employers. Personally, I would like to see this progress and become a serious discussion within NZ with Unions, Employer and Industry groups.

The scheme would generally meet the full cost of income replacement once a claim is accepted

59 *Do you agree that employers should only pay a bridging payment to employees leaving work because of a health condition or disability when the employment is terminated by the employer?*

Yes, also with redundancy

Chapter 9 – Insurance claimants' obligations (Pg 113-120)

Reasonable obligations for people receiving income insurance payments

60 *Do you agree claimants should be obligated to look for work or prepare to return to work while receiving insurance?*

Yes

61 *Do you agree that claimants would not be expected or required to accept offers of employment that provide lower wages or conditions?*

Should not be fixed, as such, it can rule out some opportunities.

62 *Do you agree the insurer could waive obligations partially or fully where a claimant is unable to meet those obligations?*

I believe that there needs to be obligations to participate reasonably.

63 *Do you agree claimants should be obligated to remain in New Zealand to remain eligible for income insurance?*

Yes

64

Do you think a period of time, such as 28 days, should be allowed for travel overseas, for example, to support ill family?

Yes, strict set of criteria and the test of reasonability needs to be used.

Specific obligations for claimants with a health condition or disability

65

Should claimants with health conditions or disabilities be subject to obligations to participate in rehabilitative programmes and other support, where appropriate?

Yes, with support from GP and other providers

66

Should claimants with health conditions and disabilities be subject to obligations to search for work or undertaking training where they are able to?

Yes,

Consequences for non-compliance

67

Do you think financial penalties should be in place for people who do not meet their obligations while receiving insurance payments?

No, unless they had not declared other additional earnings

68

Do you agree that payments could be fully suspended in cases of serious, intentional non-compliance with obligations?

Yes

69

Do you think any other consequences should be in place for people repeatedly not meeting their obligations, such as permanent suspension of entitlements?

We need to consider the purpose of the IIS, perhaps. The purpose is to promote social, vocational, and financial prosperity of NZ. I wonder if this could be viewed somewhat through a different lens (i.e. what can we do for this person to promote change?) How unique do we want to be, without losing financial efficiency? I believe that firm parameters need to be established however.

Chapter 10 – Delivering income insurance (Pg 121-134)

Independent and effective delivery

70 *Do you think it is best for ACC to deliver the income insurance scheme alongside the accident compensation scheme?*

Yes, I strongly believe in the experience and knowledge that ACC holds to run this scheme. But IIS needs to avoid being ACC version 2.

71 *Would the income insurance scheme be better delivered by a government department or a new entity?*

Not convinced of this.

Accountable and effective governance

72 *How could employer and worker perspectives best be incorporated to strengthen the income insurance scheme's delivery for New Zealanders?*

NA

73 *How could Māori perspectives best be incorporated to ensure the income insurance scheme is delivered equitably and with aspiration?*

Work with Maori in order to ensure all aspects are considered, in particular with the family and provider connection/union.

Displaced workers: Getting back to good jobs

74 *What practical support should be available to insurance claimants to return to work?*

There are basic principles of injury management. These principles could be aligned with NZ culture and "speak".

I believe that a suite of (3 min video) resource should be available for some aspects for employers and employees and providers

1. How to identify and manage worker disability
2. Accommodating workers with health and disability matters
3. Leadership and support
4. Working with IIS and providers

This is an example. There can be resource provided and mention in the videos, such as how to document alternative duties and RTW planning. Examples of healthy and productive conversations.

Videos are repeatable and easily accessible to make sure the messages and brand is consistent with all the key people, GP, employee (family), employer and IIS

- Over the phone advice
- Pdf's to support the video material.
- 1/4ly teams/zoom meetings (training) to support industry groups to lead with key messages and support for leadership, improvement and case examples
- There might be an injury management team (small) with the exclusive focus to ensure employers are informed, engaged and supported.

75 *Who should provide that return-to-work support?*

Not sure at this stage

76 *What type of claimants would need an employment case manager, and who could self-manage?*

There would be a process to understand what type of circumstances needed one to one or self-manage.

77 *What do you think a 'return-to-work plan' should include?*

The RTW plan is part of the overall injury management approach. Any RTW plan would have the client input for what they feel they are able to do against the potential alternative duties or hours. Client "buy in" often secondary, which can lead to a failed RTW outcome, if not considered well.

Health condition and disability claimants: Getting back to good jobs

78 *What practical support should be available to income insurance claimants with a health condition or disability to return to work?*

Rapid access to relevant discipline who can talk about their health issue, inclusion of the family is very important. RTW planning MUST work in harmony with the clinical view.

Provider, family, client, and IIS Zoom/Teams conferences to establish a rapport – personal connection is crucial for someone to feel they are valued, and people simply care for them.

79 *Who should provide that support to return to work?*

Not certain at this stage

80 *What type of claimants would need a case manager, and who could self-manage?*

NA

81 *Do you agree with the proposed four-step dispute resolution process for the scheme?*

Yes

82 *Are there specific aspects to the scheme's dispute resolution you think should be considered?*

Scheme integrity and enforcement

83 *Do you agree with the proposal to establish an effective offences and penalties framework to protect the scheme's integrity?*

Yes, but guarded with where these may place a person – what then?

Information collection and sharing

84 *Do you agree with the proposal to develop information sharing agreements and sharing arrangements with employers, other agencies and service providers?*

Yes

Chapter 11 – Funding income insurance (Pg 135-144)

Most funding would come from compulsory levy payments on income

85 *Do you agree the income insurance scheme should be funded from compulsory levies on the income that is insured, rather than from general taxation?*

Yes

Levy payments would be shared by employers and workers

86 *Do you agree that levy contributions should be equally split between the employee and employer?*

Yes

87 *Do you agree that levies for health conditions and disabilities and for redundancy should be set separately?*

Yes

Both the employee and employer would be charged at a flat rate

88 *Do you agree that employees should be levied at a flat rate on income below \$130,911?*

Yes

89 *Do you have any other suggestions for how the employee levy should be structured?*

No

90 *Do you agree that experience rating would not be an appropriate design setting for the employer levy?*

Not convinced at this stage, but financial incentives are good to explore

Levies would adjust smoothly over time, with independent fund management

91 *Do you agree that an independent fund with a stable levy-setting system should be established to finance the income insurance scheme?*

Yes

92 *Do you favour a Pay As You Go or Save As You Go funding approach?*

Save as YG

Building in scheme adaptability, while protecting levy sustainability

93 *Do you agree that the legislation for the income insurance scheme should provide the flexibility to vary entitlements and eligibility in times of crisis, over and above the proposed income insurance scheme?*

Yes

94 *Does such flexibility create risks that require additional mitigations?*

Yes

Other comments

I can foresee significant discussion around the deduction of the levy, for example deduction of say \$27 per week in these times will be a hot potato.

I look forward to seeing how development of the scheme progress's, very exciting.