

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 Jenkins
Organisation (if applicable)	
Contact details	Privacy of natural

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, absolutely.

The disparity between how a worker is treated when unable to work following a physical injury when compared to a medical condition is unnecessarily large.

From personal experience (diagnosis of Multiple Sclerosis with vision impairment and sensory/mobility problems) where I was unable to continue in my existing line of work (As a tyre shop manager), I was forced to navigate the MSD processes for medical unemployment. Here I was treated the same as if I was able bodied and unemployed: having to attend compulsory workshops for CV writing and job interview techniques, my partner (a student working part time) was expected to financially support me, I was expected to use my personal savings for food & rent, sell my car and all other potential assets, and only then would I qualify for any financial support. In the end I did not pursue any financial assistance because it all became too much to deal with, I went through a depressive period, went about \$10,000 into debt, and relocated to another city after finding more suitable employment. Privately offered income protection insurance will now no longer cover me for any loss of employment due to MS (as it is now a pre-existing condition).

If I had been out of work because of injury I would have been treated so much better, from both a financial and personal perspective. I would have been able to avoid going into debt, and my mental state would have been a lot healthier. I may have even been able to return to the workforce earlier because stress can trigger and exacerbate MS symptoms – a lower stress process might have allowed for an earlier recovery.

I can quite comfortably state that trying to deal with MSD was one of the most aggravating, depressing, and dehumanising experiences I have been through, all while also having to deal with a multitude of neurological issues from Multiple sclerosis and significant financial hardship. Any scheme that can provide better financial support, treat you as a person, and is available to low-income earners (who could not otherwise afford income protection insurance) is far better than our current state of affairs.

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?*

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

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

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

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

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

Yes

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

Yes

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?*

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?

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?

12

Do you agree that income insurance should cover the 'loss of reasonably anticipated income'?

13

Do you agree that income insurance entitlements should be based on an 'established pattern of work'?

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?

Yes.

Paying a seasonal employee outside of the standard season should not happen. E.g. an employee at a ski resort would normally work from May to October. If they make a claim in July, any entitlements should cover the lost income from July to October, and not cover anything from November onwards.

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?

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?*

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

Coverage for self-employed workers

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

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

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

There are already standards to establish if a person is entitled to annual leave and/or sick leave. The easiest system would be to apply the same standards here.

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

Medical incapacitation.

Most other situations could be easily covered by a form of privately obtained business continuity insurance.

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

A lower levy as dictated by the reduced cover.

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?*

No.

I believe the threshold should be tied to sick leave entitlement: 6 consecutive months under the same employer, regardless of whether there have been any contributions. This combined with the "regular pattern of work" clause would still be able to provide limited cover for part time/casual employees, especially university students working only during holiday periods.

Limits on subsequent claims

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

No.

Instead, penalties should exist to punish employers/company directors that demonstrate a pattern of early termination resulting in claims. This could further disincentivise the practice of "creative dismissal" by disestablishing a role rather than following correct disciplinary processes.

25

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

No.

Since the claim only applies through the cessation of employment, and as per 23 above would require sick leave entitlement to qualify (i.e. 6 months continuous employment in a new job), it would be able to limit itself.

e.g. 6 months in a job, claim for 7 months, new job for 6 months before being eligible again.

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

Someone with a low contribution history will have a lower "regular pattern of work", so payments will be limited there.

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?*

No.

All workers paying income tax in NZ should be eligible, provided they meet all other eligibility requirements.

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.

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.

Ongoing parity with ACC would be ideal.

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.

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, but only insofar as their combined income from all sources (including any entitlements under the scheme) totals their original income.

34

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

Yes, absolutely.

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?

No. Their eligibility should be assessed based on any entitlement being considered as being in paid work.

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?

No specific limit.

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?

Yes.

Either: Income insurance would pay up to the date that PPL begins. PPL entitlements will then be paid as normal. At the conclusion of PPL, any remaining income insurance should be paid, up to the maximum entitled duration, counting from the first day of any insurance claim

e.g. insurance claim from 15th April, PPL begins 15th June – insurance would pay 80% from 15th April – 15th June, PPL would pay 15th June – 14th December (26 weeks), no further insurance payment as it is now 8 months from the claim start date. If the PPL balance was transferred to the claimants eligible partner earlier, any remaining insurance eligibility could be paid out – if the PPL balance were to be transferred after 8 weeks (10th August), the 80% insurance payments would resume for the 10th August – 15th October period (7 months from claim start).

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?*

Yes.

Each income source should be eligible for only one claim (ACC or this scheme), but not both. Each income source should be assessed independently.

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?*

Yes.

4 week bridging assigns a cost to the employer to discourage exploitation, while 7 months provides a good duration to either find new employment, or in the case of permanent disability, establish a new financial equilibrium.

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

I would support a longer entitlement for medical disability, in line with what an equivalent disability through accident/injury would receive through ACC.

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?*

Enhancing the income insurance scheme with notice periods

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

No.

I do not believe any specific notice requirements are needed. The employer's liability of 4 weeks bridging wages should begin at the conclusion of any notice period in the employment agreement, and the insurer should be notified at least 4 weeks prior to entitlements beginning.

Avoiding unnecessary redundancies

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

Yes

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

Yes

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?*

Yes

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

I feel that the biggest risk is from unscrupulous employers using redundancy instead of legitimate means of termination. Ensuring that there is a not insignificant financial cost associated with redundancy (bridging payments, investigations and fines in extreme cases) should limit this type of exploitation.

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?*

Yes

No restrictions on the working arrangements covered by the scheme

50 *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?*

Any reduction of capacity totalling 2 weeks full time equivalent (10 days) in any 3 month period should be eligible, with scope for rehabilitation/physical therapy/workplace site assessment or similar to assist in getting back to full capacity where possible.

In case of partial reduction of capacity, any insurance payments should top up to 80% of pre-claim income.

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 and no.

A claimant's health practitioner should be the main contact, but quite often there will be one or more specialist medical persons who will need to be involved in assessment. A GP may not be able to make a full assessment of work capacity.

In many cases there would be need for a workplace assessment to be done as well – not all workplaces are created equal, and what is achievable at one site could be impossible at another. Points of contention could be access, seating, lighting, tool and equipment ergonomics, temperature, shift duration, proximity to bathroom facilities... A statement of "this person has the capacity to work" is an objective answer to a subjective question.

A nuanced approach with a full return to work plan would be the best balance here.

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)?*

If the employer is receptive and willing, yes.

It all comes down to how you define “reasonable” and “willing”. Is a more ergonomic chair a “reasonable” cost that all employers are “willing” to pay? What about better lighting? Wider doors? Retrofitting a mobility toilet in a small, old workshop? Different work hours?

56

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

A workplace assessment that details any changes that are needed, and a system for the employer to claim some/all of the costs of outfitting any required infrastructure to support a return to work.

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?*

Yes.

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

Statutory, with a bridging payment/penalty if this is not done.

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.

The employer should also not be required to pay a bridging payment if an employee is deemed to be medically unfit to work, with no reasonable prognosis of returning to work within 6 months.

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?*

No.

Adding this dehumanises the claimant (who has just lost their job through no fault of their own).

This is the most humiliating and psychologically scarring aspect of the existing MSD process and should be absolutely avoided.

There is a deadline for looking for work, and that is the end of the insurance payments. People will be motivated by this alone.

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

No.

Again, this is dehumanising. Allow claimants to have agency over their own future employment.

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

No.

If a claimant is eligible, their eligibility should not be revoked except in cases of fraud/dishonesty.

63

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

Yes.

They should only be receiving payments while they are resident in NZ

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.

Claimants should be eligible to receive payments if they are in NZ for the majority of the calendar days in any given month. This will allow small trips to be taken, or a longer trip with an according reduction in payments.

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?

No.

Assistance should be available and encouraged, but not mandated. Their medical team should be directing the claimant to these services as part of any ongoing treatment anyway.

66

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

No.

Assistance should be available and encouraged, but not mandated.

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.

68

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

Only in the case of fraud.

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

Only in the case of fraud.

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.

It will reduce the likelihood of claims being made to both agencies for the same incident, employers are familiar with the claim process

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

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?*

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

Displaced workers: Getting back to good jobs

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

CV classes, interview technique workshops etc should be available to those who want.

Links to appropriate online tools would be useful as well.

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

Anyone, so long as it is not the MSD...

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

Have a case manager make initial contact with the claimant, but allow people to self-manage unless they request assistance.

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

A quick questionnaire to determine if a person is likely to need any resources, and then provide links to those resources.

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?*

Physical therapy, support groups, etc, as per 52 – 56 above

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

ACC through GP/Specialist referrals

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

All medical disability claimants should have a case manager, with a check-up after 6 months, and every 3-12 months thereafter (medical condition dependant).

Dispute resolution

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

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

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?*



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?*

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?*

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

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

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 you go

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?*

Limit the overall additional liabilities that any changes create unless directly funded by government financial intervention.

Other comments

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