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26 April 2022

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

Sent by email: [incomeinsurance@mbie.govt.nz](mailto:incomeinsurance@mbie.govt.nz)

Dear Sir/Madam

## **Submission on the New Zealand Income Insurance Scheme Discussion Document**

1. This submission is made by Foodstuffs (NZ) Limited on behalf of Foodstuffs North Island Limited (FSNI) and Foodstuffs South Island Limited (FSSI), which are 100 per cent New Zealand owned retailer co-operatives. The regional co-operatives jointly own Foodstuffs (NZ) Limited (Foodstuffs) which represents the co-operatives interests in national policy and input on public policy matters.
2. The Foodstuffs co-operatives own and develop retail stores which are franchised to co-operative members. Our brands include PAK'nSAVE, New World, Four Square and Gilmours.
3. Foodstuffs welcomes the opportunity to submit on the *New Zealand Income Insurance Scheme Discussion Document* (Discussion Document), as prepared by the Tripartite Unemployment Insurance Working Group on behalf of the Future of Work Tripartite Forum (Forum). The Discussion Document proposes a New Zealand income insurance scheme (NZIIS) for two categories of workers, namely, those that lose their jobs due to displacement (i.e. redundancy) and those that need to take extended time off from work due to health conditions and disabilities. We have provided feedback separately on the proposals for displaced workers and the proposals for workers with health and disability conditions. As an overview, Foodstuffs does not support the proposals for a NZIIS as outlined in the Discussion Document.

## **Questionable need for an income insurance scheme**

4. When developing public policy there must be a clear definition of the problem that exists and careful consideration of all the alternative options available to address the identified problem. It is not clear to us that, at this time, there is a problem of a size, that justifies the introduction of a universal income insurance scheme for workers
5. As the Discussion Document states, New Zealand tends to have lower levels of economic displacement and unemployment compared with many OECD countries. This means that displaced workers should be able to find new employment relatively quickly. This is shown in the data as unemployment is at historic low of 3.2%<sup>1</sup> and virtually all sectors in New Zealand are facing severe labour shortages. New Zealand's long-term unemployment rate is also well

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<sup>1</sup> In the December 2021 quarter: <https://www.stats.govt.nz/tereo/news/unemployment-rate-at-3-2-percent>

below the OECD average<sup>2</sup>. As such, there is no evidence to indicate New Zealand has a material problem with high and persistent levels of unemployment that requires government intervention on the scale proposed.

6. The Discussion Document states that technology could replace more jobs currently done by people. However, the Productivity Commission's 2020 report '*Technological change and the future of work*'<sup>3</sup> finds that technology does not just replace jobs, it also creates them. Technology has many effects on the labour market, some of which are positive for workers, the quality of work, and jobs. The Productivity Commission's report finds that predictions that technology will inevitably replace work are simplistic and out of step with historical experience and there is not much sign of looming technological disruption causing significant unemployment. While it goes on to find that some New Zealanders who lose their jobs currently face large falls in incomes and high financial stress, there is no clear evidence that there needs to be the development of an income insurance scheme for all New Zealanders.

## **Alternative options to NZIIS for displacement**

7. If we assume that there is a problem that needs to be addressed, then there should be an evaluation of all feasible options available to address the identified problem. The Discussion Document does not canvass a range of possible options to deal with worker displacement and workers impacted by health conditions and disabilities. Instead, the Discussion Document presents a NZIIS as if it is the only option available for discussion. There has been no public consultation on the alternatives. The Productivity Commission in its 2020 report '*Technological change and the future of work*'<sup>4</sup> identified income-smoothing options that could be considered for those who do lose their jobs and face large falls in income. The Productivity Commission included options such as portable individual redundancy accounts, adjustments to current benefit and tax credit policies, statutory redundancy as well as unemployment insurance. But its report states that these options required further detailed analysis. The public has not been provided with detailed analysis of the alternatives to a NZIIS.

### *Statutory redundancy*

8. If there is to be Government intervention, Foodstuffs' preference would be for consideration of statutory redundancy as an alternative proposition. Statutory redundancy payments only affect those employers who make an employee redundant, are one-off payments when genuine redundancy situations actually arise, and do not involve businesses cross-subsidising others that need to displace workers. The issue of cross-subsidisation will be amplified in situations of total business failure. As required for any fulsome consultation, there would need to be a detailed cost-benefit-analysis undertaken in respect to any specific statutory redundancy proposals. It is not clear why there has not been public consultation on this option or other alternatives to a NZIIS.

### *Social welfare backstop*

9. Currently, if you are made redundant and unable to find other suitable work, there is a social welfare backstop for those that qualify. Foodstuffs supports the comments by the Forum in the Discussion Document that there needs to be an overhaul of the social welfare system. There is insufficient discussion in the document about whether an overhaul of the social welfare system could be an alternative to the proposed NZIIS, but this is something that warrants further consideration, particularly in the context of the public good involved.

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<sup>2</sup> <https://data.oecd.org/unemp/long-term-unemployment-rate.htm#indicator-chart>

<sup>3</sup> [https://www.productivity.govt.nz/assets/Documents/0634858491/Final-report\\_Technological-change-and-the-future-of-work.pdf](https://www.productivity.govt.nz/assets/Documents/0634858491/Final-report_Technological-change-and-the-future-of-work.pdf)

<sup>4</sup> [https://www.productivity.govt.nz/assets/Documents/0634858491/Final-report\\_Technological-change-and-the-future-of-work.pdf](https://www.productivity.govt.nz/assets/Documents/0634858491/Final-report_Technological-change-and-the-future-of-work.pdf)

## *Private insurance options*

10. If a person wishes to take out insurance against the possibility of income loss, there are private market options available. While we are not experts in this area, we do hope that given the potential ramifications of the proposals that there is full engagement with all stakeholders, including the insurance industry.

## **Feedback on NZIS proposals for displacement**

11. Foodstuffs does not support the proposed NZIS for displaced workers and there are several matters which require further consideration, as detailed below.

## *Provision for employers who already offer redundancy packages*

12. While there is no requirement in New Zealand for employers to provide redundancy payments, many employers already provide this as an employee benefit. In the last year Foodstuffs North Island Ltd and Foodstuffs South Island Ltd have made a relatively small number of redundancies and for these redundancies they provided redundancy compensation. At a retail store level, redundancies are extremely rare. We do not believe employers should pay a payroll tax when they are willing to fund redundancy compensation for their staff, when actual redundancies occur.
13. Additionally, the Discussion Document explains that where a redundancy provision already exists within an existing employment agreement, it can only be changed with the agreement of both parties. However, in practical terms it will be difficult for employers to negotiate out these provisions. Therefore, employers with redundancy provisions in their employment agreements will end up paying twice. In addition to having to pay IIS levies, if an employer made an employee redundant, they would have to meet the terms of the redundancy provisions in the employee's contract, as well as pay the bridging payment under the proposed NZIS.
14. If the NZIS goes ahead, we recommend that there is provision in the legislation to make null and void any employment contract terms with pre-existing redundancy entitlements, and replace these with terms that are in favour of the scheme. Where the existing contractual redundancy provisions are more generous, the employer would be required to "top-up" the scheme's payments by the shortfall. If employers elect to top-up the NZIS provision at their own discretion after the NZIS takes effect, that is the employer's prerogative, but an employer should not be locked into paying redundancy twice because it is captured by the NZIS and via contract provisions negotiated prior to the NZIS' implementation.

## *Option to opt-in*

15. If the Government decides to implement a form of an income insurance scheme, our recommendation is that further work is required to consider a model that allows workers to opt-in to participation. This means that only those workers that are keen to contribute to an income protection insurance scheme can choose to do so. Under this approach, employers would make matching contributions for employees that choose to participate. Alternatively, if this is not palatable to policy makers, our alternative proposition is for there to be consideration of an opt-out approach to participation in an income insurance scheme, akin to KiwiSaver. Foodstuffs North Island Ltd report that 28% of employees have opted out of KiwiSaver indicating that a high proportion of employees would probably want a choice in relation to an income insurance scheme. Again, the decision would be that of the employee, and the employer would not be liable for contributions if an employee opts out.

## Costs

16. Quantum of levy: The proposal is that the NZIIS is to be fully funded to meet its annual liabilities, with a small reserve fund to help improve the scheme's sustainability in case of worse-than-expected economic conditions. In practice the levies would be adjusted to cover the actual cost of the scheme based on entitlement and use. Foodstuffs has concerns that the proposed levy rate may not be sufficient to cover the actual costs of the NZIIS and that levies would quickly increase in the future, given the caveats in the Discussion Document. The Discussion Document states that "*estimating the costs across the whole workforce is much more difficult because we cannot be sure how many people would claim insurance due to either displacement or a health condition or disability*". To counter concerns over data availability and projected NZIIS costs, it is proposed that the levy rate would be "*adjusted when necessary*". This indicates that if the NZIIS is implemented, that the levy could increase in the future. Other schemes internationally which are less generous and only pay for redundancy (and not health and disability conditions) have relatively higher levy rates. The German scheme is an example with a levy of 2.4%, split equally between employees and employers<sup>5</sup> and it does not cover health and disability conditions.
17. Our concern is that there is a high risk that the actual costs of the scheme have been underestimated. As such, there is the risk that if there are no changes to the current proposals, the levy will need to substantially increase, or the scheme will have to be topped up by general taxation. If the scheme goes ahead, there should be a cap on the amount by which the levy could be increased in a single year. For example, the Government funding policy statement in relation to the funding of ACC's levy accounts requires that any annual increase to the aggregate levy rate for each account must not exceed 5%<sup>6</sup>. We would expect that if the NZIIS goes ahead, there would be a similar limit to the ability to increase any NZIIS levy, and that the Crown would act as the funder of last resort if shortfalls arise.
18. Costs to worker and employer: It is proposed that the costs of the NZIIS would be met through a compulsory levy paid in equal proportions by employers and employees, with the initial levy proposed at 1.39% on income below \$130,911 for each party. Assuming everything else remains the same, this will in effect result in a 1.39% increase in labour costs and a 1.39% salary and wage reduction for workers. This is akin to a taxation increase for both parties. These costs are not offset via tax relief, or similar, so are an impost on business and workers.
19. Inflation: The worker's levy will exacerbate the current high inflation and cost of living with a net reduction in a worker's salary of 1.39%. Some employers will not be able to absorb a 1.39% increase in costs, particularly in the current high inflation environment. Therefore, employers will either have to create efficiencies (for example employ fewer staff, have staff work fewer hours, refrain from salary increases etc) to offset the NZIIS costs, or pass on the levy costs to the end consumer of the goods or services the business provides in the form of price increases.
20. Potential for unintended consequences: There is also the potential for unintended consequences for employers with this proposal. With the current tight labour market, it could be that employees look to ask for their NZIIS levy to be factored in to salary negotiations/re-negotiations. If this were to occur, it would result in the full costs of the levy in effect being passed on to employers. Given the annual inflation rate for the March 2022 quarter was 6.9%<sup>7</sup> it is highly likely that workers will be looking to increase their salary positions, not maintain the status quo. If this eventuates, this will have an even greater cost impact on employers.

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<sup>5</sup> <https://taxsummaries.pwc.com/germany/individual/other-taxes#:~:text=Unemployment%20insurance%3A%202.4%25%2C%20up,the%20employer%20and%20the%20employee>.

<sup>6</sup> <https://gazette.govt.nz/notice/id/2021-go1226>

<sup>7</sup> [https://www.stats.govt.nz/indicators/consumers-price-index-cpi?gclid=EAlaIqobChMlvTR3rWk9wIVmUVIAB2WfQ7oEAAYASAAEgJ3avD\\_BwE](https://www.stats.govt.nz/indicators/consumers-price-index-cpi?gclid=EAlaIqobChMlvTR3rWk9wIVmUVIAB2WfQ7oEAAYASAAEgJ3avD_BwE)

21. Extension to base training period: There is a proposal to extend the base period for training or vocational rehabilitation. The Discussion Document anticipates that if this was instigated that it would increase the levy from 2.77% to 2.9% to 3.3%. This extension of scheme scope would add further pressures to the issues highlighted above. For this reason, we would not support an extended training period being funded by the scheme. Furthermore, ability to extend the NZIIS payments beyond the six month threshold could lead to an increased number of people exploiting the system and claiming they need more training (or choosing longer training courses) in order to be in receipt of the income insurance for longer than the six months proposed. This will further increase costs.

### *Minimising exploitation of the NZIIS*

22. Foodstuffs has concerns that the scheme could be open to exploitation by some employers and employees gaming the system. Under the proposed NZIIS, there could be situations in which the employer and employee agree that a redundancy would be in both their interests, such as when dealing with insurmountable employment relationships, or colluding to provide the employee with early retirement. Employers could also misuse the scheme as a mechanism to exit poor performers by making their positions redundant rather than addressing the underlying performance issue. These abuses will increase the numbers of workers illegitimately accessing the scheme and drive up its costs. To mitigate this happening, mechanisms need to be put in place to minimise any potential for abuse.

### *Scheme design*

23. In terms of specific scheme design we provide the following feedback:
- a. **Contribution requirements and scheme replacement rate**: We support the recommendation to limit contribution requirements to \$130,911 and to limit payments to 80% of prior income up to \$130,911 to mirror the ACC limits.
  - b. **Participation period**: We support the requirement that an employee must have contributed for six months in the 18 months preceding any claim.
  - c. **Bridging payments**: Employers are to meet the cost of the first 4 weeks of the worker's period of unemployment (capped at 80% of the \$130,911 limit), known as a bridging payment. Foodstuffs view is that employers should just be required to provide one month's notice of the redundancy, or the contractual obligation, whatever is greater, and that there should not be any bridging payment before the employee transfers to the NZIIS. If this recommendation is not palatable, the alternative proposition is that any bridging payment should be prorated for any tenure under 12 months. For example, if an employee had been employed for 6 months and then the position was made redundant, rather than being paid a 4-week bridging payment, the employer should only be paid 50% of the bridging payment, i.e. a 2-week bridging payment.
  - d. **Working arrangements covered**: We support coverage of self-employed persons who most resemble employees. Any fixed-term worker covered should only be covered up to the original intended end date of the job. We would have concerns over casual workers being captured, unless they can show a regular pattern of work and a reasonable expectation of future income.
  - e. **Exclusions**: Foodstuffs supports excluding claims involving termination for poor performance, gross misconduct and resignation as reasons for claiming insurance.
  - f. **Training**: As noted above, Foodstuffs does not support an extension to the base period (of six months) for training or vocational rehabilitation up to a maximum of 12 months being funded by the scheme. This proposal would inevitably lead to a significant cost increase to the NZIIS and therefore an increase in the quantum of the levy.
  - g. **New Zealand residents and citizens**: We agree with limiting coverage of the proposed income insurance scheme to New Zealand citizens and residents, with restrictions on time claimants can spend outside of New Zealand. In addition, to ensure New Zealand workers are not disadvantaged by lower-cost international workers, we 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. However, it is only fair that these workers should have the benefit of their payment until the expiry of their visa, provided all the other criteria are met. Alternatively, these workers could be refunded their contributions when they leave New Zealand.

## **Scheme for job loss due to a health condition/disability claim**

24. As stated above, when any public policy decisions are being made there needs to be a clear identification of the problem and analysis of the potential solutions to address the problem. We are concerned that the Discussion Document proposes an insurance scheme which places general health conditions and disability claims, unrelated to work, on the responsibility of the employer. There has been no public consultation on alternative options and it would be preferable for this to occur before the current proposal is decided on.

25. In principle, however, Foodstuffs is not opposed to an income insurance scheme for people unable to work due to health conditions/disability claims, *provided* workers have the choice to opt-in to or opt-out of the scheme and employers are *not* required to contribute to the scheme. Reasons for this position are detailed below.

*Employers should not have responsibility for general health and disability claims unrelated to work*

26. While Foodstuffs sympathises with any person suffering from a health condition or disability, once sick leave entitlements are used, it should be up to each individual employer to decide how it deals with each individual situation as general health conditions and disability claims are not an employer's responsibility. Income support for individuals who need to stop working because of a health condition or disability, unrelated to work, should come from personal savings, private insurance or state welfare. Therefore, as a backstop there should be provision for these matters to be funded out of general taxation as a matter of general public good.

*Private insurance schemes*

27. If a person wishes to take out insurance against the possibility of being unable to work due to a health condition or disability, there are private market options available. While we are not experts in this area, we do hope that given the potential ramifications of the proposals that there is full engagement with all stakeholders, including the insurance industry.

*Alternative options*

28. Foodstuffs does not oppose an income insurance scheme for people who become unable to work due to non-work related health conditions or disabilities provided it is an opt-in model, or opt-out model akin to KiwiSaver, whereby the worker has the choice whether or not to belong in the scheme. Like the ACC earner's account, there would be no mandate for any employer contributions, and the scheme would be funded by earners only. However, employers could top-up with private insurance as an employment benefit at their discretion.

*Employers who already offer income insurance for health conditions and disabilities*

29. While there is no requirement in New Zealand for employers to provide employees with access to income insurance for health conditions and disabilities there are some who provide or subsidise this type of insurance as an employee benefit. It is similar to the situation where employers have a redundancy provision within an existing employment agreement. If the NZIIS goes ahead, we recommend that there is provision in the legislation to make null and void any pre-existing employment contract terms related to income insurance for health conditions and disabilities entitlements. There should be provision to allow these terms to be replaced with terms in favour of the scheme. If existing contractual entitlement provisions are more generous, the employer would be required to "top-up" the scheme's payments by the



shortfall. Once again, the parties could voluntarily negotiate new provisions which are more generous, after scheme commencement.

## *Social welfare backstop*

30. If a worker is unable to work due to a health condition or disability, there is a social welfare backstop, for those that qualify. Foodstuffs supports the comments by the Forum in the Discussion Document that there needs to be an overhaul of the social welfare system. There is insufficient discussion in the document about whether an overhaul of the social welfare system could be done in such a way that addresses some of the policy concerns in the Discussion Document. Use of general taxation funds is more appropriate where funding is needed to pay for policies with broad public benefit.

## *Costs*

31. Similar concerns arise about the costs associated with the health and disability claims as arise for the displacement claims. We will not repeat the concerns identified above, other than to note our concerns about costs of the proposed scheme, particularly when inherent uncertainties in the length of time a sick or disabled person may be unfit for any work. This adds to complexities around treatment and rehabilitation and further adds to the difficulty in accurately assessing the costs of the proposed NZIIS. Consequently, this increases the risk that the scheme costs may be underestimated.

## *Feedback if there is a decision for the health condition and disability scheme to proceed*

32. While Foodstuffs does not support the scheme as proposed for health conditions and disabilities, we do take the opportunity to comment on some of the specifics of the proposed scheme:

- a. **Contribution requirements and scheme replacement rate:** We support the recommendation to limit contribution requirements to \$130,911 and to limit payments to 80% of prior income up to \$130,911 to mirror the ACC limits.
- b. **Participation period:** We support the requirement that an employee must have contributed for six months in the 18 months preceding any claim.
- c. **Working arrangements covered:** We think there would be challenges in working out income support entitlements for casual workers and self-employed persons due to the inherent variability in their income. There would need to be further consideration about how these challenges would be dealt with in practice.
- d. **Controls /audits:** There would have to be mechanisms to prevent exploitation of the system to minimise cost impacts.
- e. **Job protection:** We support the proposal that employers should have to make reasonable efforts to protect a job where a worker has a reasonable prognosis of returning to work within six months. However, it should not be mandatory for employers to keep the position open where it is not practical to do so.

## **Summary**

### *Policy development for a NZIIS*

33. The Discussion Document proposes a NZIIS for two categories of workers, namely, those that lose their jobs due to displacement and those that are unable to work due to health conditions and disabilities. When developing any public policy there must be a clear identification of the problem that exists and careful consideration of the options available to inform policy formulation to resolve the identified problem. It is not clear to us that there is a problem, of sufficient materiality, to justify the introduction of an income insurance scheme at this time. However, if Government believes there is a problem that requires a solution, the merits of all the various options to resolve the problem should be explored. This has not

occurred, and these steps should take place before any decisions are made to introduce a NZIS.

## *Displacement scheme*

34. Notwithstanding concerns over the policy development, Foodstuffs does not support the proposed NZIS for displaced workers. There private insurance alternatives and there is a social welfare backstop, albeit reform of which may be required. We have concerns that there will be large cost impacts for both employees and employers (heightened with the high level of inflation and cost of living pressures), the levy rate may have been underestimated and there is significant potential for the scheme to be abused.

## *Health conditions and disability claims*

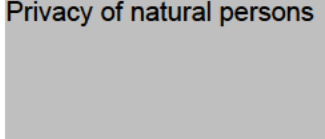
35. In principle, Foodstuffs is not opposed to an income insurance scheme for people unable to work due to health conditions/disability claims, provided earners have the choice to opt-in to or opt-out of the scheme and employers are *not* required to contribute. The key reason for this position is that workers general health and disability conditions, unrelated to work, are not an employer's responsibility. There are concerns that any scheme that covers these matters will drive up costs for both workers and employers when there are private market options available for health and disability cover and there is a social welfare backstop, albeit reform of which may be required.

## *Consultation period*

36. The NZIS proposals represent a significant change to the employment obligations. The Discussion Document was published in February 2022 and it is proposed that if the scheme goes ahead it is implemented in 2023. We have concerns that there is insufficient time to fully consider and debate the policy implications from the proposals and to consider alternative options to those proposed in the Discussion Document.
37. We await with interest the next steps and welcome the opportunity for further consultation and dialogue on these significant proposals.

Yours sincerely

Privacy of natural persons



**Sarah Tuohy**  
**Public Policy Manager**