

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	James Hare
Organisation (if applicable)	
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, but employees who already have loss of earnings insurance and redundancy provisions in their employment contracts should be able to opt out of the scheme so that they are not forced to pay for a scheme they will not benefit from. For these individuals it would just become an additional tax burden when household incomes are already stretched beyond breaking point.

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?*

The scheme should provide the same benefits and entitlements to all New Zealanders

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?*

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?*

Yes, otherwise it could make it easy for people to game the system

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, there should be a material and quantifiable loss of income to trigger the insurance

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, provided they are contributing to the scheme. The scheme will need to prevent seasonal employees and their employers gaming the system by terminating their employment at the end of the season in order to trigger the insurance payments and then rehiring them the following season. This could be quite complicated to address in legislation, but it is very important that loop holes like this are closed

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

Yes, but the legislation will need to be well thought out in order to prevent gaming by both employers and employees with the onus on the employee to demonstrate the loss

13

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

Yes, but the legislation will need to be well thought out in order to prevent gaming by both employers and employees with the onus on the employee to provide evidence to demonstrate the established pattern

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

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?

No. This would be too easily open to abuse by both employees and their employers. Individuals who enter into these types of employment are aware they are not permanent employment arrangements, and they should not be treated as such under the insurance scheme.

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, but the legislation will need to be well thought out in order to prevent gaming by both employers and employees with the onus on the employee to provide evidence to support their claim for insurance

17

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

The legislation needs to clearly state the intent and put the onus on the employee to provide reasonable evidence to support their claim. Detailed regulations will need to be drafted so as to minimise the administrative burden and deter abuse of the system.

Coverage for self-employed workers

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

Self employed should be excluded from the scheme and should make their own private insurance arrangements if they are concerned about loss of income. It will be too easy for self employed to gam the scheme and other taxpayers should not be providing a safety net for them.

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

Self-employed individuals should not be included in the scheme

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

Contractors should not be included in the scheme for the same reasons self-employed people shouldn't

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

They shouldn't be included in the scheme

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

They shouldn't be included in the scheme

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, it is too short and opens up the scheme to abuse by some individuals. It should be increased to 12 months over a period of 24 months preceding a claim

Limits on subsequent claims

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

Yes, to reduce the chance of individuals abusing the scheme

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

Yes

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

Yes, by increasing the minimum contribution period, refer response to question 23 above.

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

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

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 but this should also be used to cap the contribution calculations to the scheme by employees who earn more than \$130,911 a year so that they are not subsidising other participants in the scheme or paying for a benefit they will not receive.

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

34

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

Yes

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?

No as this would be inconsistent with the current approach of not income testing these pensions.

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

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, but the legislation needs to prevent double dipping.

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

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

No, I think 6 months is a reasonable period

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?*

Yes, but there needs to be a robust process in place in order to ensure the person completes the training and that it will enhance the persons future employment opportunities. It shouldn't be used as a form of welfare by individuals who do not want to participate in the workforce.

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?*

I think 2 weeks would be more appropriate. Often businesses which are laying off staff are doing it in order to survive and adding additional costs to the business will only make the situation worse. Employers are also contributing to the insurance scheme and landing them a further 4 weeks of cost appears unreasonable.

Avoiding unnecessary redundancies

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

No, they should only be required to pay them for 2 weeks.

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

No

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?*

No

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

Yes, there must be strong enforcement powers for employers and employees that misuse the scheme, or it will be seen as another form of welfare.

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)?*

No, self-employed should acquire private insurance in the market and should not be included in the scheme.

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?*

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

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)?*

Yes

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

Make grants available where they need to invest in infrastructure to support people returning 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?*

No, 6 months is too long. Businesses can not be expected to find temporary replacements and train them. 3 months would be more appropriate. The insurance scheme should help with vocational rehabilitation costs.

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

This should be an expectation only

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

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?*

Yes

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

Yes, provided sound reasons are given to support the waiver

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

Yes. They will not be actively looking for work if they are not 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?

Only in very limited circumstances and with evidence to support the request.

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

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?

Yes

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?

People who attempt to defraud the scheme should face criminal charges and be permanently barred from participating in the scheme.

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?*

No. ACC has a poor track record for administering its own scheme fairly and transparently and should not be appointed to administer the insurance scheme.

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

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?*

By involving them in the set up and governance of the new entity

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

By involving them in the set up and governance of the new entity

Displaced workers: Getting back to good jobs

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

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

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

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

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?

79

Who should provide that support to return to work?

80

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

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?

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, the scheme should be a user pays system so those who benefit from the scheme pay for it, but it should not be compulsory for employee's who have existing private income insurance arrangements to join the scheme.

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?*

The employee will bare the full cost of the scheme as employers will find other ways of recouping their share of the levy.

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

No this is over complicating the scheme

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, and there should be no levy applied on income above this amount as it is outside the scope of the scheme.

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

Stick with a flat levy as it is simple to administer and will therefore be cheaper

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

Yes, it will over complicate the scheme and add administrative costs to the scheme and businesses.

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, if there are wild fluctuations in levy's the scheme will lose credibility in the eyes of the public and fall victim to political interference.

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

Pay 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?*

No this will open the scheme up to political manipulation and the possibility that some employee's contributions are used for the benefit of others which may result in levy's increasing, and the scheme being viewed as something politicians can use to buy votes.

As was done over the past 2 years the government should separately fund additional support payments during a crisis to avoid a wealth transfer between employees.

The insurance scheme should be ring fenced and not used for other means.

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

Yes, flexibility creates a large risk that the funds may be used for things they are not intended, and governments may be tempted to dip into the fund during tough times.

Other comments

The scheme should not be compulsory, and employees should have the ability to opt out, similar to Kiwi Saver, especially if they have existing redundancy and loss of earnings arrangements in place.

If the scheme is compulsory, then the levy will just be viewed as an additional tax by employee's and for employers who already provide their staff with comprehensive redundancy and loss of earnings insurance cover.

The proposed levies and entitlements for the scheme should be benchmarked against private insurers who provide similar or the same services and similar schemes overseas to establish their reasonableness.

The scheme should not be administered by ACC as if it is it will inherit all of ACCs historical baggage and this will likely result in the public being sceptical about how equitably the scheme will be administered.

