



New Zealand Women's Law Journal
Te Aho Kawe Kaupapa Ture a ngā Wāhine

Social Unemployment Insurance Tripartite Working Group

Ministry of Business, Innovation and Employment

By Email: incomeinsurance@mbie.govt.nz

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Submission on Income Insurance Scheme

- 1 Thank you for the opportunity to submit on the discussion document for the proposed Income Insurance Scheme (the Scheme).
- 2 This submission is made on behalf of the New Zealand Women's Law Journal – Te Aho Kawe Kaupapa Ture a ngā Wāhine Trust (the Trust). The Trust is responsible for administering the New Zealand Women's Law Journal (the Journal), which is the only academic publication that is solely dedicated to publishing legal scholarship about women's issues in the law and supporting the work of women lawyers in New Zealand. The primary aims of the Trust are to promote awareness about gender justice in the law and to support women in the New Zealand legal profession in their careers. This includes contributing to wider society discourse about legal issues facing women.
- 3 The Trust is supportive of the Working Group's objectives to facilitate a productive, sustainable and inclusive economy by supporting persons who have been excluded from work either through displacement or due to health conditions or disabilities. However, we have concerns about gender and other inequities built into the proposal.
- 4 The focus of our submission is twofold: to highlight aspects of the Scheme we support, and to draw attention to aspects of the Scheme that we think ought to have greater consideration for potential gender disparity issues, and related equity concerns. In preparing this submission, we are mindful of the gender inequities imbedded within many of New Zealand's existing social support systems, such as ACC. We are hopeful that the Scheme will avoid replicating such inequities, in accordance with the stated aim of fostering an inclusive economy.

Scope of coverage – types of work covered

- 5 We support that the proposal covers a broad range of working arrangements and situations, including by providing for fixed-term and seasonal employees, casual employees and those in self-employment (particularly that which resembles employment).
- 6 As the discussion document recognises, women (as well as Māori, Pasifika and young people) are more likely to be in non-standard forms of work, including casual, fixed term and seasonal working arrangements.

- 7 We anticipate that there may be some resistance to the breadth of work covered by the Scheme, particularly from groups who may wish to limit the overall cost of the Scheme. In our view, the broad scope of work included helps ensure the Scheme applies equitably to women. Narrowing the scope of work covered would risk excluding many women, as well as other persons who do not have secure fulltime employment – disproportionately, Māori, Pasifika, and young people.
- 8 We have also seen critiques of the inclusion of seasonal and other casual work on the basis that employers and employees might collude to abuse the system i.e. by agreeing that the employee would be made redundant shortly before their contractual end. In our view, concerns with compliance should be dealt with by putting in place robust monitoring systems and penalties for those who abuse the system, rather than by narrowing the scope of the Scheme and excluding more vulnerable members of the workforce from potential coverage.
- 9 We further support that eligibility under the Scheme is based on individual income rather than household income, as the latter assumes equal access to household income and can lead to the secondary earner losing financial independence. Research shows that financial abuse is a gendered issue in Aotearoa and seems to reproduce gendered stereotypes that subjugate women.¹
- 10 We further support that the Scheme applies where a person loses one of multiple forms of employment. This too is a gendered issue, as the discussion document recognises that women (as well as younger people) are more likely to hold multiple jobs at the same time, as against fulltime employment in a single role.

Scope of coverage – types of displacement covered

- 11 We support the scope of work displacement covered by the Scheme, which includes the loss of work due to the disestablishment of a job and the loss of work due to health conditions or disabilities.
- 12 We support the proposal that there be no restrictions on the types of conditions covered by the Scheme. As the discussion paper acknowledges, exclusion of some types of conditions would likely be considered unfair.²
- 13 Narrowing the Scheme to include only some types of health conditions or disabilities risks leading to gender and other inequities. The paramount example of this is ACC. Although designed to be “universal”, ACC’s own analysis shows that the focus on accident-related physical injuries has perpetuated gender disparities against women, who are less likely to make a claim or have a claim accepted.

¹ See Ang Jury, Natalie Thorburn and Ruth Weatherall “What’s his is his and what’s mine is his: Financial power and economic abuse in Aotearoa” (2017) 29(2) Aotearoa New Zealand Social Work 69 at 77.

² At 100.

- 14 One proposal raised in the discussion document (although not recommended) is limiting coverage to those conditions where the diagnosis does not rely on subjective information, such as many mental health conditions.³
- 15 The disparities evident in the ACC context demonstrate how any narrowing risks having unintended and potentially discriminatory consequences.
- 16 In the event that medical conditions covered by the Scheme are narrowed, coverage would become an operational matter for the Agency in charge of the Scheme. As with ACC, it would be impossible to capture in legislation all conditions and circumstances that are and are not covered. In the ACC context, for instance, there have been difficulties with some issues distinct to women not being appropriately covered at an operational level, even when legislation would seemingly allow it.
- 17 If that situation arose, we recommend putting oversight mechanisms in place to ensure that the system is not being operated in a way that is discriminatory against women or other groups. For instance, this could be done by mandated reports to the minister made publicly available that outlined statistics of the types of injuries covered and any gender, ethnic or sexuality breakdown.
- 18 Narrowing the scope of health conditions or disabilities covered could also disproportionately impact Māori, who are more likely to leave work for health or disability reasons.⁴

Inclusion of statutory parental leave

- 19 We support that the qualifying period for the Scheme includes time spent on statutory parental leave, both paid and unpaid, and acknowledge that the Working Group has made this recommendation to mitigate the potential for gender bias.⁵ This recommendation recognises that women are far more likely to take parental leave than men, and that this disparity (among other factors) has wide-reaching impacts on women's workforce participation, earnings and leadership positions.
- 20 In the 2017 edition of the Journal, Joy Guo wrote an article titled: What is the best paid parental leave arrangement to promote gender-balanced caregiving in the home, and gender equality in the workplace in New Zealand? She made the following relevant comments:

Gender inequality in the home and workplace are interdependent. After decades of formal equality, women still lag behind men in workforce participation, earnings and leadership positions. This is partly due to the disproportionate amount of time that women care for children compared to men. Research shows that one in four mothers aged 25 to 44 are not in work, and women's average work hours are substantially below full-time. By contrast, most men forego parental leave and fulfil familial obligations by providing for the household. Being the primary caregiver means that, in general, women participate less in the labour force than

³ At 100.

⁴ At 42.

⁵ At 69.

men and, in doing so, they forego skill development crucial to their market position. After women have children, the pay gap between men and women becomes dramatically wider, and increases with each child.

[Footnotes omitted]

- 21 We agree with the proposal that paid parental leave (PPL) and the Scheme are both available to those who are eligible for both. The proposal to allow income and PPL to be accessed sequentially seems sensible for most cases. However, flexibility should be considered to ensure both PPL and Scheme entitlements are both available in full to those who are eligible for both. There may be cases where it makes more sense for payments to be made simultaneously.
- 22 At face value it appears inconsistent that the pension is treated differently to PPL. People who receive the pension can continue to receive both entitlements concurrently, and yet a sequential approach has been recommended for PPL and Scheme payments.
- 23 We support income insurance coverage extending to those on unpaid and non-statutory leave for a short time following parental leave. We understand that it is relatively common for the primary carer to take a short period of unpaid, non-statutory leave following statutory parental leave, particularly where the employee is only entitled to 26 weeks of statutory parental leave. In our view, it would be disproportionately unfair if someone were to receive a diagnosis or be made redundant during that short time and then not be entitled to benefit from the Scheme.

Exclusion of persons who reduce hours or leave work to care for whānau

- 24 Persons who reduce their hours of work or stop work entirely to care for whānau will not be covered by the Scheme. As the Working Group has acknowledged, this disproportionately impacts women, particularly Wāhine Māori.⁶
- 25 The discussion document notes that financial help and other support for carers is available through the welfare and health systems, including pay for partners and spouses looking after family members and those caring for children under 18 years.
- 26 In our view, further policy consideration ought to be given to the possibility of enabling persons to access the Scheme when they are required to reduce their hours of work or stop work entirely to care for whānau.
- 27 While financial support may be available through the welfare and health systems, this is not measured in the same way as the Scheme and persons who are suddenly required to reduce hours or leave their jobs altogether may suffer an immediate drop in income. This goes against one of the core purposes of the Scheme, which is to cushion people from the unexpected drop in income when they lose employment, noting that debts such as mortgage payments do not disappear.

⁶ At 50-51.

- 28 There does not seem to have been any policy consideration for why persons taking on carer roles should not benefit from the Scheme if caring duties are time-limited (i.e. person they are caring for recovers/has a non-permanent injury) or while they explore options for retaining alternative care arrangements or becoming a fulltime carer themselves, using the existing welfare and health entitlements. In our view, these scenarios are analogous to someone who stops work due to a disability, uses the Scheme, and then either returns to work or switches to alternative welfare support such as a Supported Living Payment.

Gender (and other) pay gap

- 29 In our view, there is a risk that the Scheme will disproportionately benefit those who become displaced from roles that were full-time and well paid.
- 30 The Scheme provides 80 percent of a person's previous income, up to a cap of \$130,911. That is well above the median income (as at June 2021, \$1,093 per week, which is \$56,836 per annum), meaning higher earners have potentially significantly more to gain from the Scheme.⁷
- 31 We note too the gender pay gap, which according to Statistics New Zealand, as at June 2021, was 9.1 per cent.⁸
- 32 In 2021 edition of the Journal, Megan Vant wrote an article titled: Emerging challenges in the implementation of pay equity law in New Zealand. In that piece she made the following relevant comments:

The gender pay gap is a basic indicator that compares the median hourly earnings of men and women.¹² Statistics New Zealand calculates New Zealand's official gender pay gap as the difference between the median hourly earnings of women and men in full- and part-time work, and measures the difference between the pay of men and women over time.¹³ New Zealand's gender pay gap has been trending down and has decreased from a gap of 16.2 per cent in 1998 to 9.1 per cent in 2021.

[Footnotes omitted]

- 33 Putting to one side the issue of which types of workers will utilise the Scheme more, all other things being equal, it will advantage high income earners.
- 34 As the discussion document recognises, that is more likely to be Pākehā men. Men are more likely to be in permanent full-time work than women, young people, Māori and Pasifika, and that those with non-permanent work arrangements typically earn less than those in full-time roles.

⁷ Stats NZ: <https://www.stats.govt.nz/information-releases/labour-market-statistics-income-june-2021-quarter>

⁸ <https://www.stats.govt.nz/information-releases/labour-market-statistics-income-june-2021-quarter>

- 35 Of course, it is difficult to assess from the outset how the Scheme will operate in practice, and which groups will utilise it most. It may be the case that the Scheme benefits those with less stable work environments as they may utilise the Scheme more. We suggest there should be an inbuilt review mechanism to ensure equitable outcomes for claims between men and women, as well as other groups in more precarious work situations such as Māori, Pasifika and young people. This could be achieved by annual, publicised, reporting by ACC to the Minister, publishing statistics on the demographics of groups benefiting from the Scheme and paying into it. This would ensure accountability and enable policy changes to be made should the Scheme be adversely affecting some groups.

Risk of a two-tiered system

- 36 We support the concerns raised by a number of media commentators that the Scheme risks creating a two-tiered system. We support the intent of the Scheme and its objectives to facilitate a productive, sustainable and inclusive economy, but this cannot exist in isolation. Reform is needed to ensure that those receiving Jobseeker Support, Supported Living Payments, and other benefits are not left behind from this inclusive economy.
- 37 Failing to address the significant disparity between existing welfare support and the proposed income insurance scheme risks perpetuating or even deepening existing inequities.

Conclusion

- 38 Thank you for the opportunity to submit on the Income Insurance Scheme Discussion Document. Please feel free to contact us if you have any questions or wish to discuss anything further.

Ngā mihi

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