

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 Stevens
Organisation (if applicable)	PowerNet Limited
Contact details	Privacy of natural persons [Redacted]

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?*

No. Not in its current form. Our preference is to let the private market manage this.

Nonetheless should the Government choose to proceed with the scheme, PowerNet have outlined some further feedback on the questions asked. These responses however are secondary to our stated lack of support for the scheme overall.

PowerNet prides itself on being a good employer that provides generous employment benefits. We already provide equivalent benefits to what is proposed under the income insurance scheme as part of our employment agreements. If the scheme is introduced as proposed, we have no ability to remove these existing benefits from our employment agreements. As the scheme makes no provision to recognise equivalent benefits, our company would in effect pay these costs twice.

If the scheme was to proceed, we would recommend that the scheme recognises employers who already provide an equivalent benefit e.g. the same as when Kiwi Saver legislation was introduced and there was provision made which recognised employers who already provided superannuation benefits called Kiwi Saver Complying funds.

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?*

No comment

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

No comment

4

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

No comment

5

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

No comment

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. Although we foresee the new scheme may in fact be used this way – using the Income Insurance scheme as a cushion to ‘soften the blow’ of terminating an employee due to other reasons such as poor performance or serious misconduct.

The same currently happens with s123 payments (tax exempt payments under the Employment Relations Act 2000) which are supposed to be for hurt and humiliation. In reality it is PowerNet's view that a lot of employers, unions and employees use this section of the Act to minimise costs and avoid PAYE tax obligations when entering into a record of settlement for a mutual exit/termination of an employment relationship.

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?

On the basis the scheme is implemented as proposed, yes.

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?

No.

An employee with multiple jobs would be contributing 1.39% of their gross income to this scheme for each job they hold.

If the scheme is implemented as proposed, it is our view they should be able to claim under this scheme for the loss of income less than 20%.

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, for permanent employees e.g. permanent part-time.

No, for casual or fixed term employees as these employees already know their employment is not permanent upon commencement. As elaborated below, it is our view if someone does not stand to benefit from this scheme, it should not be compulsory for them to contribute to it.

12

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

No. If the scheme were implemented as proposed it should cover loss based on actual historical income from a job only, not anticipated income. It would be administratively difficult to prove/disprove anticipated income.

13

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

Yes.

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, seasonal and fixed term employees should not be covered as they know before commencing employment their employment is finite. In our view they should not be required to pay the 1.39% levy in that instance either.

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?

No.

Casual employees should not be covered by an income insurance scheme as they know before commencing employment their employment is finite. In our view they should not be required to pay the 1.39% levy in that instance either.

17

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

As above in #16, we do not support casual employees being included in it.

Coverage for self-employed workers

18

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

PowerNet have no issue with self-employed being covered by the proposed income insurance scheme – should it be implemented. However, one risk with self-employed people is they have the ability to make decisions (e.g. make themselves redundant to benefit from the scheme) which would need to be carefully managed.

19

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

No.

20

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

Apply the already well established Contractor/Employee test.

21

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

No comment

22

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

It could be collected the same way ACC levies are collected.

A modest minimum contribution period

23

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

Yes.

Limits on subsequent claims

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

Yes.

There should be limits to the number of times someone can claim on any income insurance scheme within a set timeframe.

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?*

No comment

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.

However, we do not agree with imposing this levy on migrant workers operating on work visa's if they do not benefit from it.

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?*

No. We do not consider it fair to require someone to contribute to something which they never stand to benefit from.

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?*

No.

If the income insurance scheme were to be implemented, PowerNet believe support should not be a linier 80%. It should start at 80% and ramp down progressively so displaced people have an incentive to find work.

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.

However, is it fair to impose a levy on someone based on 1.39% of their total income if they are capped at \$130,911? Should it be only 1.39% of their income up to 130,911 which the 1.39% levy applies to?

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?*

No.

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 comment

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.

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?*

No.

It is not reasonable to expect an employer to pay a 1.39% levy contribution and pay an extended notice period (on top of the 2-4 weeks in the contractual notice period)?

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

Yes.

Any income insurance scheme should not provide support to six months. It should cap out at 3-4 months or the income insurance payment should ramp down so there is an incentive for someone to actively find new employment.

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?*

No.

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?*

No. They should give the period of notice outlined in the employment agreement only.

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 give the period of notice outlined in the employment agreement only.

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.

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?*

No.

We do not agree with the scheme providing cover for health conditions or disabilities. – these are not redundancy situations which arise from an employer’s action/inaction so are not within their immediate control.

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. Please refer above comments.

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?*

No. In line with our previous comments regarding our preference to exclude health conditions or disability under the scheme.

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?*

No – refer previous question

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?*

Per our earlier comments – we do not support the inclusion of health related claims.

However health should related claims be included in the scheme, PowerNet support the use of health practitioners to assess work capacity.

54

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

As above for Q53 - 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)?

Agree.

56

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

This is no different to the current requirements on an employer.

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?

This is an existing employer obligation. It should not be impacted as a consequence of the potential introduction of this scheme.

It is not reasonable to stipulate a six month period in every instance as there are a number of factors impacting it such as the persons sick leave balance, size and resources of the employer etc.

58

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

No, it is neither fair nor reasonable to impose such a statutory obligation on an employer. Some smaller employers could not manage to keep a role open when an employee was absent for six months.

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?

No. We do not agree the employer should contribute a 1.39% levy to this scheme and be expected to pay a four week bridging payment on top of the contractual notice period.

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?*

No.

If an employee has been with an employer for some time, it is unlikely they would commence employment on comparable terms to their existing terms and conditions as some benefits are triggered based on service e.g. Enhanced leave provisions.

It would be a nightmare for those administering this scheme to compare the terms and conditions of one employment arrangement to another. How would you practically do this?

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

No comment

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

Yes.

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

The payments should cease during this period as the person is unlikely to be actively seeking employment when travelling overseas. This is scope creep for this scheme.

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?*

Yes.

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 does not have a positive track record for managing someone back to work following an injury. The skillset to manage someone with an injury is quite different to helping someone return to work following a redundancy, health or disability event.

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?*

As part of the current consultation process, employer and workers have an opportunity to provide input into the scheme.

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

No comment

Displaced workers: Getting back to good jobs

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

It's important the scheme is designed to incentivise people to find work within a reasonable timeframe (a linier payment for six months does not achieve this). In our view the current scheme design is not fit for purpose.

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

No comment

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

All claimants should be assigned a case manager otherwise people will fall through the cracks and those who are not driven to find alternate work will not be proactive in seeking this out.

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

Support writing CV's

Vocation planning

Skill development e.g. attendance requirement at courses to maintain existing or develop new skills

Interview preparation skills etc.

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?*

We do not support the scheme being extended to include health or disability support.

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

No comment

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

No comment

Dispute resolution

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

No comment

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

No comment

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?*

PowerNet does not support the scheme. However if it were to proceed, we would support a levy rather than general tax as the levy is specific to those in employment. General tax will impact members of society who are not eligible to benefit from 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?*

Yes. We believe consideration should also be given to employers / employees who can demonstrate they already provide / receive at least an equivalent benefit. In such instances they should be able to opt out of the scheme.

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

If they are to be included in the scheme – levies for health conditions and disability should be separate from redundancy levies

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. This is in line with our prior responses that if an employee does not stand to benefit from the scheme they should not contribute to it. For employees earning above \$130,911 there is no additional benefit in them contributing a levy above that level.

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

No

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

No comment

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?

Prefer 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.

94

Does such flexibility create risks that require additional mitigations?

No comment

Other comments

As mentioned above PowerNet does not support this scheme and would prefer the Government left both employers and employees to manage risk associated with redundancy, health or disability events via the private market.