

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	Tobias Tohill
Organisation (if applicable)	UVISA Immigration Specialists Limited
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?*

No.

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?*

By including 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?*

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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, definitely. There should not be reward for misconduct or breach of good faith.

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

No. Resignation can be prompted. There can be limits, such as resignation eligible for 3 months every 3 years, or 6 months every 6 years.

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?*

No and no.

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?*

It should be for loss of work. Period. Not restructure, not lowered earnings, not disappointment, not loss of one part time job of many. As an exception, it should cover partial loss of a job for lower income earners who reduce from full to part time work.

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?*

What is a non-standard worker? Why is this public consultation document full of jargon without glossary?

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

No.

13

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

Base it on prior earnings and employment agreement. Simple and executable.

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, with limitations. They must have worked a minimum period e.g. 3 months, and must not receive unemployment insurance for a longer period that they have worked.

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?

Yes. Roll over fixed term employees should be treated as if they have been permanent employees. In reality, employers should have been employing them on a permanent basis after the first 12 months.

For seasonal workers, they must have worked a minimum period e.g. 3 months, and must not receive unemployment insurance for a longer period that they have worked.

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.

17

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

-

Coverage for self-employed workers

18

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

Don't do it. Self-employment comes with tax efficiencies and autonomy. It also allows for greater earnings if successful. It is risky, but has reward. There is no need to reduce the risk artificially. NZ has a fairly low business failure rate compared with other countries.

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

All.

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

Pass law and court decisions that confirm the contractors who resemble employees are employees!

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

Disagree.

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

Disagree.

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, with exception for seasonal workers.

Limits on subsequent claims

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

Yes

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

No. 3 months in 3 years, or 6 months in 6 years.

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

Yes, reduce the entitlement.

Coverage for New Zealand citizens and residents

27 *Do you agree with limiting coverage of the proposed income insurance scheme to New Zealand citizens and residents?*

No. Migrants pay taxes and are less likely to become redundant due to work ethic and visa requirements. It should protect all contributors.

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. All workers must contribute. All workers are covered. Employers should not contribute. What does NZCTU want to create a two tiered society in which migrants are no treated with the same dignity and respect as other workers?

The fear that “New Zealand workers are disadvantaged by lower cost international workers” is a fallacy. Unmotivated NZ workers may be seen as less attractive by employers when comparing to harder working international workers. Mistreating migrant workers to placate the whinging of slack NZ workers is regressive and ill-founded. NZ workers who work hard, with motivation, do very well and are not at all disadvantaged by migrant workers.

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?*

70%

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)?*

No. \$200k. Pegged to CPI for wages.

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?*

-

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?*

Use an abatement where appropriate. Or no.

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

No. 80%

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?*

Only INWC and MFTC. Still eligible for general WFTC.

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?*

No

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?*

Yes. 100% limit.

Where eligible, insurance claimants could choose whether to access Paid Parental Leave or income insurance and may receive both sequentially

39 Do you agree that income insurance and Paid Parental Leave could be accessed sequentially but not at the same time?

No. At same time fine.

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, with cap for fairness.

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 and no. Entitlement 3 months, not 6. No employer payment. Employer has already paid wages /salary.

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

See above.

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. Can get training/vocation rehab grant from general taxation.

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?

Yes.

Avoiding unnecessary redundancies

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

Absolutely not.

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

No. People need to plan and have at least 4 weeks of wages put aside!

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. Employers to not pay.

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.

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)?*

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. Reasoning already given elsewhere.

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.

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?*

-

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

-

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)?*

-

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

-

Employers would be expected to make reasonable efforts to keep a job open where a return to work within six months is likely

57 *Where an employee must stop work entirely because of a health condition or disability, do you think employers should be expected to keep a job open and help with vocational rehabilitation where a reasonable prognosis is made of return to work within six months?*

-

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

-

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. Employer not liable for health condition or disability, unless at work. Then it is under ACC already.

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, of course! But no silly requirements from Work and Income. Just limit entitlement to 3 months every 3 years, that will motivate people to find work.

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

No.

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

Yes.

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?

Real exceptions only eg. 21 days for dying family member.

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?

ACC

66

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

ACC

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?*

Not sure. But don't let WINZ near it!

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

Not sure. But don't let WINZ near it!

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?*

Don't charge employer. But don't let WINZ near it!

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

Ask iwi or Te Puni Kokiri

Displaced workers: Getting back to good jobs

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

CV writing, interviewing, access to recruiters

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

The agency administering the unemployment insurance scheme.

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

All self manage for 3 months. Case manager for those who hit 3 month mark and run out of insurance and shift to WINZ.

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

See above. Key point is only 3 months entitlement.

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?

Disagree with claims for health conditions or disabilities. Disabilities come under ACC. Health conditions are too expensive to cover and private health insurance can already cover this.

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?

To a reasonable extent that protects civil liberties and prevents information shared being used for other purposes.

Chapter 11 – Funding income insurance (Pg 135-144)

Most funding would come from compulsory levy payments on income

85 *Do you agree the income insurance scheme should be funded from compulsory levies on the income that is insured, rather than from general taxation?*

Yes

Levy payments would be shared by employers and workers

86 *Do you agree that levy contributions should be equally split between the employee and employer?*

No. The employer is already paying the wage/salary rate. This insurance is for the employee, not the employer. It replaces the employee saving the funds themselves for their own future needs. It can be taken in part from general taxation as employment insurance can reduce the need for social welfare. There is no good reason why employee insurance should be paid by employers, given the considerable rights and protections employees are already afforded in NZ employment law.

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

Health conditions should not be covered by unemployment insurance. Disabilities should be covered by ACC. Redundancy only should be covered by unemployment insurance.

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?*

No. It should also be scaled for income.

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

It should also be set by likelihood it will be used, just like ACC does for occupations. If builders are more likely to use it, then their levies should be higher.

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

No idea what 'experience rating' means. Have you thought of explaining it? If it is my suggestion under no.89, then no.

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?*

-

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

Save as you go.

Building in scheme adaptability, while protecting levy sustainability

93 Do you agree that the legislation for the income insurance scheme should provide the flexibility to vary entitlements and eligibility in times of crisis, over and above the proposed income insurance scheme?

Yes, within clear limitations.

94 Does such flexibility create risks that require additional mitigations?

Yes, there should be clear limitations.

Other comments

Strongly oppose levying employers. Employers are already paying wages/salary. Unemployment insurance replaces voluntary savings by employees from their wages/salary to plan ahead for life changes. This should come from levies on employees' wages/salaries and from general taxation - savings social security payments via WINZ. Most people who lose their jobs find work within 3 months. If these people now get unemployment insurance instead of social security payments, it's a better result and low administrative cost.

The WINZ system is punitive and cumbersome, degrading of dignity at a time when people's self-esteem is low. By replacing WINZ with a system of up to 3 months of unemployment insurance for every 3 years of work it will save on administrative costs currently incurred by WINZ, as long as unemployment insurance is easy to access and with a 'light touch' in terms of governance. It should include all workers, including migrants, who are vulnerable from redundancy.

For those employers quick to let staff go, better to introduce compulsory 4 weeks redundancy payment to all employees who are employed on a permanent basis, or on a fixed term agreement for more than 3 months where the fixed term agreement is cut short.

Self-employed workers are not workers, they are employers. For those self-employed contractors who 'resemble employees', the right solution is to pass legislation and enforce it in court decisions that confirm that self-employed contractors who resemble employers are in fact de facto employees. This is a rort by employers to reduce costs of having employees and must be stopped, as it undermines good employers and circumvents protections for workers.

ACC covers workplace injuries and disabilities, and health conditions from work. There is no need for unemployment insurance to cover this instead. Private health insurance covers loss of work due to illness or disablement and workers can contract this, or keep aside their own savings. As a compromise, employers might be reasonably requested to contribute to private health insurance

coverage for workers employed for more than 3 years on a permanent basis. As a minimum, such cover should be tied to loyalty and time service, as many NZ business struggle to retain staff for more than 2-3 years.

Levies on employers could be limited to larger companies, with at least 10 staff or more. That will allow great business competitiveness to smaller companies as they grow.