



VicLabour

Submission on Income Insurance proposal

Tēnā koutou katoa,

VicLabour thanks the Ministry of Business, Innovation and Employment and the wider Working Group for their consideration of our submission. We would like to make an oral submission, if possible, to engage with decision-makers, address any questions, and speak to our points.

Executive Summary

We have identified various key issues with the proposal. While the core of it is quite good, and VicLabour supports the focus and structure behind it, there are still gaps which need to be addressed – particularly around casual workers, the levy makeup, restrictions on NZ citizens, the ability to use the scheme more than once during an 18 month period and the obligations during claiming.

Casual Workers

We know that casual workers are the most vulnerable members of the workforce. As the consultation document notes, they are significantly younger than the overall workforce and disproportionately Māori, Pasifika, and female. They have poorly defined employment rights that leaves them in a position of extreme uncertainty and vulnerability to employer mistreatment. Casual workers must be clearly defined within this scheme, with clear and certain rights under it. That means creating a more certain criterion for entitlement for casual workers than ‘established patterns of work’ and ‘reasonably anticipated income’. Because these are uncertain they allow employers, and potentially the scheme, discretion to set the rates lower than casual workers deserve. Because these workers are vulnerable and almost always asset-poor, they cannot afford the costly legal and bureaucratic fights that it often takes for them to get what they should be entitled to. That means many simply accept poorer entitlements because of the uncertainty. This scheme cannot repeat that mistake. The scheme should use a more certain test that is easier to apply to give casual workers the assurance they need that they will receive all of what they are entitled to.

Progressive vs a flat rate for levy

Like almost every other country in the developed world, Aotearoa has a progressive system of taxation. We don't tax people at equal rates. We have chosen collectively that those who can afford to pay more, do pay more. VicLabour would like to see that system become even more progressive than it is, but at the very least we should not be going backwards. As it stands, the flat contribution rate for this scheme would do exactly that. Because it is a flat rate, that means it will be regressive and impact those on lower incomes more than it will those on higher incomes. Those who can afford to pay a greater share of their income towards this scheme should do so. Instead of a flat 1.39%, VicLabour suggests there be a progressive rate that increases with income.



Eligibility of non-NZ Citizens

Everyone is aware that the current situation in New Zealand tends to see seasonal workers taken advantage of, and the fact that there are significant issues around modern slavery in NZ. We need to protect workers and their rights, no matter their background or how long they've been contributing to our country. Those workers who are not NZ Citizens may be contributing for a significant period of time (such as visa holders - particularly those on skill shortage visas) but receive no benefits as a result. We need to ensure that we protect workers who are taken advantage of and support them if they are made redundant. If their visa conditions are tied to working and they have to leave NZ, then they will stop receiving the scheme once they leave so it's unlikely to result in overpayments and MBIE will be well aware of when their immigration status changes. We need to also keep in mind that making these people eligible and also pay into the scheme will reduce administrative costs by continuing the "blanket" approach this scheme is trying to create where everyone pays and everyone is covered.

Repeated use of the scheme during an 18 month period

While we understand the reasoning behind preventing repeated use of the scheme, people should be able to claim more than once every 18 months if needed. We've seen in situations, like this global pandemic which has been going on for 2+ years now, that economic situations can ebb and flow - changing very quickly. Someone could've been made redundant in one of the first lockdowns, and then again in the Delta lockdown but not be eligible for support the second time around, even though both times are due to economic downturn. This will particularly affect lower income workers and those in less secure jobs who are more likely to be made redundant. As a result, there is a greater risk of those who are at the greatest risk will fall further into the hole and end up structurally unemployed in the long-term. There can be an investigation process in place if needed to ensure that people don't abuse this, however if they do it's likely to be a small number of people and a minimal cost compared to the cost to the welfare system otherwise in supporting these people who are made redundant multiple times.

Obligations during claim period

The welfare system is known to punish the most vulnerable of people, placing excessive and unrealistic requirements on them to be eligible for their benefits. We need to shift away from this mindset with all state support - including income insurance. As a result, we should be reducing the obligations for people during their claim period, particularly regarding searching for a job. We should support people to retrain or undertake further professional development before they re-enter the workforce, and we should lean towards a guidance-focus rather than an enforcement-focus. We can see with benefits that placing unnecessary requirements on them actually has little to no results in getting people off benefits, but genuine one-on-one support and training does.

The above summarises our key issues and concerns with the document, but below is an answer-by-answer response to all the questions in the discussion document.



Chapter 4

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

Chapter 5

2. How can we ensure the proposed income insurance scheme honours Te Tiriti o Waitangi?

We need to ensure that the programme is co-designed with iwi/Māori throughout the process. We also need to make sure that the scheme considers things such as people who leave in order to become a carer, or similar.

3. What are the opportunities for partnership and Māori representation in the scheme's governance and operations?

We believe these discussions should be deferred to iwi/Māori directly.

4. How can we ensure equity of access, participation, and outcomes for Māori in the proposed new scheme?

We believe these discussions should be deferred to iwi/Māori directly.

5. How can we reflect and embed Te Ao Māori in the scheme's design?

We believe these discussions should be deferred to iwi/Māori directly.

Chapter 6

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

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

Yes



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, should also cover a person being given the option of resigning or getting a part-time contract. Should also cover substantial loss in hours for casual employee (e.g. working an average of 40 hours pw for a year and then being downgraded to an average of 10 hours pw)

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

11. Do you agree that it is important to provide income insurance coverage to non-standard workers, where practical?

Yes

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

Refer to above (executive summary).

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

Refer to above (executive summary).

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?

Yes

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 there should be less requirements. Casual employees should not have the burden of showing a fixed pattern of work. Simply the weekly average should be taken of all the work they have done while under that contract and 80% of that weekly average provided weekly.

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

These choices are not strong enough. Casual workers are predominantly young and the most vulnerable workers in the country. They must be protected, and stop all the administrative headaches that might cause.



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

Not including self-employed people may create a gap in this scheme where employers start to target hiring people as contractors so they do not have to cover the levy, which essentially gives them an opt-out of this scheme.

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

No opinion.

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

No opinion.

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

No opinion.

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

All self-employed workers should have an opt-in situation - they can choose if they want to join the scheme and then this provides the opportunity for coverage if they desire it. Self-employed workers should not be blanket excluded from the scheme and at a minimum contractors who rely on a small number of clients should be covered.

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

Yes. It makes sense that people are not required to pay for the scheme for longer than they may benefit from it. But we need to make sure it is not a consistent 6 month period and there is leeway (i.e.: people could have contributed for 5 months and 21 days of the past 18 months, should be able to apply for discretion to be covered).

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

Absolutely not. This scheme is about protecting workers, and those who are in vulnerable industries may be left behind by no fault of their own if they just happen to be made redundant twice in 18 months, which given the fast-changing nature of work is highly plausible. This will particularly affect those in low-income or high-turnover workforces.

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

Limits on subsequent claims should be removed - in a situation like the pandemic someone in hospitality work could have been made redundant in the first lockdown, then again in the second lockdown. As long as they've contributed for 6 months in the past 18 months then they should be eligible. Unlikely people will deliberately try to be made redundant to get covered repeatedly, and systems can be put in place to investigate those who do repeatedly abuse the scheme. Should be reviewed after 3-5 years of scheme existing to ensure this does not take place.



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

No opinion.

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

No, it should be available to all who work in NZ. We shouldn't continue to leave seasonal overseas workers behind.

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, as they should be covered, and even if they are not covered it is easier administratively for everyone to pay it.

Chapter 7

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

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

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. People forced to change professions shouldn't be punished for that.

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

Yes

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 except for student allowance, as we should not be disincentivising people who have just lost their jobs from re-training.



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

37. Do you agree that income insurance claimants could also receive New Zealand Superannuation or the Veteran's Pension?

Yes, but only because superannuation should be means tested overall.

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 insurance?

No, there is already a time-limit

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

Yes

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

41. Do you agree with a base insurance entitlement length of six months, plus a four-week bridging payment paid by the employer?

Should be long enough to enable re-training, perhaps with a specific increase in length for training. Training offerings should be focussed - extension of the income insurance if person undertakes training which leads to a new job (i.e.: in month 4 of income insurance scheme, find a job that requires a 17 week course - govt will cover them for that 17 month course and pay them until they get into that work, if the employer agrees to hire them).

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

Longer

43. Do you think the scheme should allow extensions to the base period of income insurance entitlements for training or vocational rehabilitation?

Yes, see 41.

44. Do you agree that employers should give at least four weeks' notice to employees, and the insurer, before redundancy takes effect?

Yes



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

Yes

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

Yes

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?

Yes, but should also pursue employers for the money back (if it is substantial enough to be worth doing so).

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

No. We should not be making people in such a stressful time jump through more hoops - this will likely lead to a lower uptake of the scheme, particularly from those in low-skilled jobs.

Chapter 8

49. Do you agree there should be no restrictions on the types of conditions covered by the scheme?

Yes, mental health should absolutely be included as we have a mental health crisis made worse by bad bosses.

50. Do you agree that all work arrangements should be covered (assuming other eligibility criteria are met)?

Yes with better protections for casual workers as outlined above.

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?

Should be less than 50%, we cannot allow people to fall into poverty and to unfairly support those on the highest income and in the highest jobs.

53. Do you agree that the claimants' health practitioner should be main the assessor of work capacity?

Yes, they are a good independent voice.

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

No, employers should not be able to lobby the doctors to exploit their employees more.



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)?

No opinion

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

No opinion

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?

Yes, and it should be illegal to hire based on discrimination of the expectation that someone might need to take advantage of this.

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

A statutory requirement. People should not be left out because of circumstances out of their control.

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, if people need to leave work because of a health and/or disability issue and resign themselves then their employer should support them and should not be incentivised to make them resign - we also need to make sure that the scheme is fair and consistent across the board.

Chapter 9

60. Do you agree claimants should be obligated to look for work or prepare to return to work while receiving insurance?

Proof of searching for a job should not be a requirement - adding more pressure on people is not what is needed, particularly for those with disabilities or health issues. Rather, there should be more of a support offering given as an alternative. Need to set up better programmes with MSD for job vacancies. Return-to-work support needs to be provided by hands-on, on-the-ground agencies, not just MSD. MSD has a record of failing to connect people to the right work, and there needs to be community-based solutions.

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

Yes, this scheme cannot support people into poverty and push them to lower their living conditions.

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, paying into the system that you receive from.

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

Yes, have some humanity - should be a 28 day period with a discretionary expansion.

65. Should claimants with health conditions or disabilities be subject to obligations to participate in rehabilitative programmes and other support, where appropriate?

Maybe, we need to ensure that this is adequate and not demeaning.

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

No, absolutely not.

67. Do you think financial penalties should be in place for people who do not meet their obligations while receiving insurance payments?

No, sanctions should be lightly used, particularly for those with disabilities/health conditions as suggested in the document, if any at all. Rehabilitative programmes should be provided, but the requirement to search for work shouldn't be there - rather a supportive and guiding hand to lead them into work if they are capable or desire to.

68. Do you agree that payments could be fully suspended in cases of serious, intentional noncompliance with obligations?

Yes, burden should be on insurer and relatively high.

69. Do you think any other consequences should be in place for people repeatedly not meeting their obligations, such as permanent suspension of entitlements?

Maybe, but light and there should be a greater focus on supporting people into work and trying to solve the issues behind why they aren't meeting obligations.

Chapter 10

70. Do you think it is best for ACC to deliver the income insurance scheme alongside the accident compensation scheme?

Yes

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

Government department or ACC.



72. How could employer and worker perspectives best be incorporated to strengthen the income insurance scheme's delivery for New Zealanders?

Review after 5 years with feedback process again, no plans to scrap the scheme but make modifications around levy rates, etc.

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

Engage directly with Māori/Iwi.

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

Lots, job listing/referral centre, incentivised training etc. Need to focus on community-based solutions and working with agencies on the ground in the local area. Large job agencies and Ministries like MSD usually force people into the wrong work or degrade people receiving government support.

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

Government or community-based agencies, with devolved funds supplied by government.

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

No opinion

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

No opinion

78. What practical support should be available to income insurance claimants with a health condition or disability to return to work?

No opinion

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

Government

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

No opinion

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

Yes, the four step process for resolution is good, but there needs to be security for those who are going through the disputes process. The scheme should pay these people while it determines if they are eligible for the scheme/while they dispute their claim. There should be appropriate controls to prevent this being abused, but there should definitely be support for those who are trying to dispute the outcome of their application.

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

No



83. Do you agree with the proposal to establish an effective offences and penalties framework to protect the scheme's integrity?

Somewhat, should be harsher on employers than employees due to power relations.

84. Do you agree with the proposal to develop information sharing agreements and sharing arrangements with employers, other agencies and service providers?

Yes

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, but progressive and not a fixed rate.

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

Yes

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

No

88. Do you agree that employees should be levied at a flat rate on income below \$130,911?

No, should be progressive and include on income above that threshold. Should not be taking proportionally less from the rich.

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

It should be structured as a progressive levy.

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

Experience levy shouldn't be included, would unfairly affect businesses that have high turn-overs, especially during a period of economic downturn.

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?

SAYGO is better for long-term viability and sustainability of the fund, as well as smoothing economic downturns as the fund will act as an automatic smoothing lever.

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, but must be only more entitlement, not less.



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

No opinion

For any questions regarding our submission, please contact the Chair by emailing viclabour@younglabour.org.nz.

Ngā mihi nui,

VicLabour

Privacy of natural persons

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