

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	
Organisation (if applicable)	
Contact details	

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.

Employers should be entitled to choose what support to offer their employees. For example, our organisation provides employees with unspecified leave, to provide our employees with the right level of support when they need it most. We also offer flexible working, which may allow our employees to flex their working hours and start/finish times based on their individual needs. We believe our policies provide sufficient coverage for our employees without the need for Government intervention, and we prefer having the discretion to best target the support we provide our employees to suit their needs.

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?*

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

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

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

Chapter 6 – Coverage for displaced workers (Pg 53-72)

Displacement and standard employment (full- and part-time permanent employees)

6 *Do you agree with defining displacement as the involuntary loss of work due to the disestablishment of a job?*

We disagree with the need for this scheme.

Employers should be entitled to choose the level of support they provide to employees and the action they take when restructuring their business. Mandating contributions to the scheme reduces the resources we have available to provide the appropriate level of targeted support to employees if required.

7 *Do you agree with excluding poor performance and gross misconduct as reasons for claiming insurance?*

Yes – these are actions of the employee that are outside the control of the employer.

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

Yes – these are actions of the employee that are outside the control of the employer.

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?*

We disagree that there is a need for the scheme.

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. If the scheme proceeds, the pay-out references the income lost – so a minimum threshold should not be required. Rather, the individual should receive 80% of the income lost.

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?*

We disagree that there is a need for the scheme, but if it proceeds, we agree it should provide an appropriate level of coverage based on eligibility. If a non-standard worker is eligible for the scheme, they should be required to contribute to the scheme.

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

We disagree that there is a need for the scheme, but if it proceeds, we consider it should reference income actually earned – i.e. reflecting on the pattern of income derived previously in a manner that is consistent with holiday pay. There is no need for a separate calculation.

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

We disagree that there is a need for the scheme, but if it proceeds, we agree it should reference income actually earned – i.e. based on an established pattern of work, which is consistent with holiday pay. There is no need for a separate calculation.

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?*

We disagree that there is a need for the scheme, but if it proceeds, we agree with this approach for fixed-term workers.

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?*

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?*

We disagree that there is a need for the scheme, but if it proceeds, we do not agree that it should apply to casual employees. Casual employees and their employer should be exempt from contributing to the scheme.

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

It is not appropriate for the scheme to apply to casual employees as, by their very nature, they should not have 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?*

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

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

The legal agreement between the parties should be referenced to determine the status of the individual as a contractor or employee. Looking at the manner in which the services are provided can be misleading, given the way in which some contract activities must be performed.

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

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

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?*

Limits on subsequent claims

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

We disagree that there is a need for the scheme, but if it proceeds, we disagree with limiting the number of claims made. If this is truly intended to be an insurance arrangement, claims should be individually evaluated based on the eligibility of the particular claim.

It would also be appropriate to consider a “no claims bonus” for employers who do not incur any claims and, therefore, do not draw on the scheme. Levies paid by these employers should reduce accordingly.

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

We disagree that there is a need for the scheme, but if it proceeds, we disagree with limiting the number of claims made. If this is truly intended to be an insurance arrangement, claims should be individually evaluated based on the eligibility of the particular claim and the payment should be made accordingly.

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

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?

We disagree that there is a need for the scheme, but if it proceeds, we only agree with limiting the scheme to NZ citizens and residents if only NZ citizens and residents are required to contribute. Contributions should only be required from eligible participants.

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?

We disagree that there is a need for the scheme, but if it proceeds, we only agree that these categories of workers and their employers should contribute to the scheme if the worker is eligible to contribute in the scheme. If there is no eligibility, this is effectively a tax on international workers and that inappropriately disadvantages employers who are unable to recruit the talent they require in the local market.

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?

We disagree that there is a need for the scheme, but if it proceeds, we agree that 80% seems an appropriate replacement rate.

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)?

We disagree that there is a need for the scheme, but if it proceeds, we agree with limiting the insurable and leviable income at the ACC rate – provided this is regularly reviewed and amended as required.

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?

We disagree that there is a need for the scheme, but if it proceeds, we disagree with an abatement of the insurance entitlements while the insurance claimant is eligible.

32

Do you agree that income insurance should have individualised entitlement, meaning a partner’s income would not affect the rate payable?

We disagree that there is a need for the scheme, but if it proceeds, we agree this should be an individualised entitlement.

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?*

We disagree that there is a need for the scheme, but if it proceeds, we disagree with an abatement of the insurance entitlements while the insurance claimant is eligible.

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

We disagree that there is a need for the scheme, but if it proceeds, we disagree with an abatement of the insurance entitlements while the insurance claimant is eligible.

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?*

We disagree that there is a need for the scheme, but if it proceeds, we agree that it should be treated as income when assessing eligibility for income support.

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?*

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?*

We disagree that there is a need for the scheme, but if it proceeds, we agree that it should be available to these claimants, on the basis they have contributed to the scheme while in employment.

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?*

We disagree that there is a need for the scheme, but if it proceeds, we do not agree that a limit should arise, as the participant should be eligible as they have been contributing to the scheme.

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?*

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?*

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?*

We disagree that there is a need for the scheme, but if it proceeds, we disagree with a mandatory bridging payment by the employer. The employer has already made contributions to the scheme to cover the claims risk and may already be taking other actions to support the employee to find appropriate employment. The bridging payment may not be the best use of this funding.

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

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?*

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?*

We disagree that there is a need for the scheme, but if it proceeds, we disagree with a mandatory minimum notice period. Employers require flexibility based on their particular circumstances and a minimum notice period may unduly disadvantage the business.

Avoiding unnecessary redundancies

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

We disagree that there is a need for the scheme, but if it proceeds, we disagree with a mandatory payment by the employer. The employer has already made contributions to the scheme to cover the claims risk and employers may already provide more generous entitlements to redundant employees. In such circumstances, the more generous entitlements should be acknowledged and offset against any minimum obligation, should it be imposed.

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

We disagree that there is a need for the scheme, but if it proceeds, we disagree with a mandatory bridging payment by the employer. The employer has already made contributions to the scheme to cover the claims risk. We also disagree with the employer being required to contribute and/or make bridging payments for employees who are not eligible for the scheme.

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?*

We disagree that there is a need for the scheme, but if it proceeds, we agree that employers should be refunded for any additional costs they have incurred as a result of mandatory payment obligations, should the employee to find new work within the relevant timeframes.

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

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 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?*

52

If partial loss is to be covered, do you agree claimants should have at least a 50 percent reduction of capacity to work caused by a health condition or disability and that reduction is expected to last for at least four working weeks?

Claimants' medical practitioners would assess work capacity, with final eligibility assessed by the scheme administrator

53

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

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)?

Some employers already choose to support their employees – through unspecified leave entitlements and flexible work arrangements. It should be for the employer to choose what to provide based on what is possible within their business. These changes should not be mandatory.

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?*

No – it should be up to the employer, in consultation with the employee, to determine whether this is appropriate.

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

Neither.

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?*

We do not agree with a requirement for employers to make a bridging payment – it should be for the employer to determine what support is most appropriate for the employee in the circumstances – so resources can be targetted accordingly.

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?*

No. The insurance is stated as being intended to support the employee as they return to employment, so it would seem to be a condition of eligibility that the employee must intend to return to employment and to actively seek employment. However, as the scheme would apply to all employees equally – regardless of their intention to remain in or return to the workforce – then it would seem inappropriate to require the employee to be obliged to look for work when receiving the insurance – they should be entitled to the claim as they have paid the premiums.

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

Yes – the aim is to support the employee to find an equivalent position. However, there should be a caveat that it must be possible to find an equivalent – for example, some employees may be entitled to legacy benefits that are no longer available – meaning it would not be possible to replicate their current employment wages or conditions.

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

Yes – there should be some understanding of individual circumstances.

63

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

64

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

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?

66

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

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?

68

Do you agree that payments could be fully suspended in cases of serious, intentional non-compliance with obligations?

69

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

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?*

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

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

Displaced workers: Getting back to good jobs

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

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

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

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

Health condition and disability claimants: Getting back to good jobs

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

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

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

Dispute resolution

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

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

Scheme integrity and enforcement

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

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?*

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?*

We do not agree with the scheme, but if required, it should be self funded – like ACC.

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?*

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

We do not agree with the scheme, but if required, it should only be for redundancy. Health conditions should appropriately be covered by existing welfare arrangements.

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?*

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

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

Good employers should be recognised for the approach they take, and this should be rewarded financially. It's inappropriate for those employers who support their employees through redundancy/health matters to be required to subsidise those employers who provide low or no level of support.

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?*

The levies should be expected to reduce over time, as the fund self-sustains.

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

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?

94

Does such flexibility create risks that require additional mitigations?

Other comments

The cost of this proposed insurance scheme plus the expectation that the employee contributions will be factored into employment negotiation so potentially this will cost businesses up to 2.6% which will then further add fuel to rampant inflation.