



BRIEFING

New Zealand Income Insurance – Advice on outstanding policy choices

Date:	30 August 2022	Priority:	High
Security Classification:	In Confidence	Tracking Number:	2223-0592

Information for Ministers	Deadline
Rt Hon Jacinda Ardern Prime Minister	5 September 2022
Hon Grant Robertson Minister of Finance	
Hon Chris Hipkins Minister of Education	
Hon Carmel Sepuloni Minister for Social Development and Employment	
Hon David Parker Minister of Revenue	
Hon Stuart Nash Minister for Economic and Regional Development	
Hon Michael Wood Minister for Workplace Relations and Safety	

Contact for Telephone Discussion (if required)				
Name	Position	Telephone		1st Contact
Francis van der Krogt	Acting Manager, Income Insurance Policy	-	Privacy of natural persons	✓

The following departments/agencies have been consulted:
ACC, DPMC, IRD, MSD, The Treasury

Minister's office to complete:

Noted

Overtaken by Events

Approved

Needs change

See Minister's Notes

Declined

Seen

Withdrawn

Comment



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Purpose

This briefing provides officials' advice on remaining policy choices for the New Zealand Income Insurance (NZII) scheme, in addition to the advice in the attached paper for the Social Unemployment Insurance Governance Group (SUIGG).

Executive Summary

Decisions are needed on outstanding policy choices to enable Ministers to announce the final shape of the scheme, and to inform the drafting of a complete NZII Bill by late November 2022, for introduction to the House in December 2022. Producing a complete bill for NZII by November remains very challenging, but feasible. This briefing complements the attached SUIGG paper. The SUIGG paper explores the range of options to address each remaining choice. Social partners and officials have reached consensus on most of the outstanding policy choices.

Ministers have indicated a preference to make an announcement on New Zealand Income Insurance in mid-September. The key issues to address before then are:

- whether to provide any coverage of self-employment from the outset of the scheme, or to review this subsequently, and
- whether to reduce the scheme's replacement rate, and change the structure of the employee levy, to reduce the scheme's costs, and hence the impact of the employee levy on working people.

Significant complexities remain with providing NZII coverage for the self-employed, especially for displacement. We therefore recommend limiting NZII coverage to employees initially, while reviewing the coverage of the self-employed subsequently.

There is a range of options for reducing the replacement rate to reduce the scheme's costs. Modelling suggests only modest savings would result from these options unless the reduced replacement rate led to lower scheme take-up and claimants returning to work much more quickly. These behavioural impacts are highly uncertain. There is also considerable uncertainty in the cost estimates underpinning the NZII levy.

Strong behavioural effects could undermine the scheme's objective of smoothing incomes and allowing for a considered job search. Given these risks to the scheme's main objectives, we recommend maintaining the replacement rate and levy rate and structure agreed by Cabinet in July.

It would also be useful for Ministers to provide direction on the coverage of the bridging payment (to all displaced workers, or only those eligible for NZII), and its interaction with negotiated redundancy payments (negotiated payments could offset the bridging payment or complement it.)

Officials will take Ministers' direction on these issues to inform advice to Cabinet, ahead of a potential announcement in mid-September on New Zealand Income Insurance.

This paper also provides an update on a number of other issues, although Ministers' direction is not sought at this time:

- Treaty of Waitangi/Te Tiriti o Waitangi clauses
- crisis payments
- offences, penalties, and enforcement
- information sharing arrangements
- coverage of non-standard workers

We will bring advice to Ministers with delegated authority on these remaining issues as appropriate, to inform legislative drafting.

Confidential advice to Government

Recommended Action

The Ministry of Business, Innovation and Employment recommends that you:

1. **Note** decisions are needed on outstanding policy issues to enable Ministers to announce the final shape of the scheme and to inform the drafting of a complete NZII Bill by late November 2022, ready for introduction to the House in December 2022.

Noted

2. **Note** that this briefing complements the attached SUIGG paper and provides officials' advice on the remaining policy issues.

Noted

Outstanding Policy Issues

Levy relief for low-income earners

3. **Note** Cabinet agreed to an 80 percent replacement rate and flat-rate levy, but noted alternative policies would be preferred if they supported the scheme's objectives, provided effective levy relief, and did not require Crown funding.
Noted
4. **Note** that reducing the replacement rate could lead to modest savings of 9.2 percent before any behavioural effects are assumed, and savings as high as 17-27 percent, if behavioural impacts are assumed.
Noted
5. **Note** that these behavioural effects are highly uncertain, and that such significant behavioural effects would suggest the scheme's objectives were being undermined.
Noted
6. **Agree** to maintain the flat replacement rate and flat levy structure presented to Cabinet in July.
Agree / Disagree
7. **Note** that the Treasury considers the option of a step-down replacement rate from 80 percent to 60 percent after three months could also meet Cabinet's objectives.
Noted

Coverage for self-employed workers

8. **Note** there is a range of options for covering self-employed workers, each with challenges and risks that could complicate or delay the introduction of the Bill.
Noted
9. **Agree** to limit NZII coverage to employees, in order to focus on establishing the main scheme.
Agree / Disagree
10. **Note** that coverage of self-employment could be reviewed following the go-live of the scheme, when the effects of excluding the self-employed are clearer, and when the impacts of the Better Protections for Contractors interventions are also clearer.
Noted

Bridging payments

11. **Note** that Ministers are considering further whether negotiated redundancy payments can be applied to meet employers' bridging payment obligations, and whether bridging should be payable to all people made redundant or just to people made redundant who are eligible for income insurance.
Noted

12. **Note** that confirming these bridging settings is necessary for the drafting of the NZII Bill and is important to a number of aspects of the scheme's administration, including the enforcement of bridging obligations.

Noted

13. **Note** that MBIE provided further advice on these issues in June 2022 [BR 2122-5096 refers], and that advice is summarised in this briefing.

Noted

Other matters where direction from Ministers is not needed at this time

14. **Note** this paper provides an update on a number of further areas (below) where policy work is progressing, and on which decisions from Ministers are not needed at this time.

Noted

Treaty of Waitangi/Te Tiriti o Waitangi clauses

15. **Note** that officials are working with the Pou Tangata Skills and Employment Iwi Leaders Group (SE ILG) in the development of the Treaty of Waitangi/Te Tiriti o Waitangi provisions.

Noted

16. **Note** that provisions will reflect a purpose and commitment to equity of access to NZII for Māori and that NZII is responsive to Māori to ensure Māori benefit from NZII in the same way as others.

Noted

17. **Note** that specific governance, reporting and monitoring provisions would contribute to giving Māori a voice on matters that impact them, and that NZII's performance for Māori is transparent to Māori and regularly monitored and reported on.

Noted

18. **Note** that work is underway on drafting instructions for the Accident Compensation Amendment Bill and officials will, where appropriate, ensure a consistent approach across similar provisions in the Accident Compensation Amendment and NZII Bills.

Noted

Crisis payments

19. **Note** that officials propose to draft legislative provisions specifying that Ministers can direct the scheme to use the NZII administrative capabilities to support responses to economic crises.

Noted

20. **Note** that provisions would make clear that any payments outside the usual eligibility conditions would be a cost to the Crown, and that the scheme would likely be working in partnership with other agencies.

Noted

Offences, penalties, and enforcement

21. **Note** that officials propose to apply existing penalty and offence provisions in the AC Act to NZII. *Noted*
22. **Note** that officials propose increasing the penalty for not providing requested information to the Corporation. *Noted*
23. **Note** that it is likely that both ACC and the institutions in the employment dispute resolution system will both play a role regarding employment obligations related to scheme eligibility and entitlements *Noted*

Information sharing arrangements

24. **Note** that scheme operation requires personal information for accurate levying, and assessing and managing claims, and for determining full and correct entitlements from other agencies. *Noted*
25. **Note** that officials propose that the NZII Bill enable ACC to obtain and use information for NZII and share NZII information with other Government agencies to support service delivery. *Noted*
26. **Note** that we are engaging with the Office of the Privacy Commissioner to ensure our approach addresses privacy concerns. *Noted*

Coverage of non-standard workers

27. **Note** that Cabinet agreed that for non-standard employment (casual, seasonal and fixed-term), NZII would cover the loss of income from 'reasonably anticipated work'. *Noted*
28. **Note** that we propose that primary legislation would set out a short list of verifiable factors to be considered when determining whether a person had a reasonable expectation of future work with an employer, with particular circumstances that would meet the standard specified in regulations. *Noted*
29. **Note** that officials are working to ensure that the drafting of this provision aligns with existing employment law practices and can be practically implemented. *Noted*

Next steps

30. **Indicate** whether you wish to meet with officials to discuss the advice in this paper.

Yes / No

31. **Note** that, subject to direction from Ministers, officials propose to draft a Cabinet paper to confirm Ministers' preferred policy choices.

Privacy of natural persons

Noted

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Labour, Science and Enterprise, MBIE

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Rt Hon Jacinda Ardern

Prime Minister

..... / /

Hon Grant Robertson

Minister of Finance

..... / /

Hon Michael Wood

Minister for Workplace Relations and Safety

..... / /

Hon David Parker

Minister of Revenue

..... / /

Hon Carmel Sepuloni

Minister for Social Development and Employment

..... / /

Hon Chris Hipkins

Minister of Education

..... / /

Hon Stuart Nash

Minister for Economic and Regional Development

..... / /

Background

1. On 4 July 2022, Cabinet agreed to introduce New Zealand Income Insurance (NZII) and made decisions on the detailed design of the scheme [CAB-22-MIN-0250.02 refers], including:
 - scheme coverage
 - scheme entitlements
 - claimant and employer obligations
 - obligations and expectations for employers that apply whether or not the employee is eligible for NZII
 - scheme delivery and funding
 - dispute resolution
 - governance and funding of NZII.
2. Work is now underway to produce an NZII Bill that reflects these policy decisions.
3. Cabinet invited the Ministers of Finance, Social Development and Employment, ACC, Revenue, and Workplace Relations and Safety to report back to the Cabinet Economic Development Committee by October 2022 on outstanding policy questions relating to:
 - further options for reducing the impact of the NZII levy on low-income workers
 - further coverage choices for self-employed workers
 - the role of NZII in responding to economic crises
 - further advice on enforcement, offences and penalties
 - arrangements for obtaining and sharing personal information required to administer NZII
 - coverage for non-standard workers (fixed-term, seasonal and casual).
4. We understand that Ministers are also considering two aspects of the bridging payment, namely whether all displaced workers should receive bridging payments (or only those eligible for income insurance), and whether negotiated redundancy payments can meet employers' bridging payment obligations. This paper summarises recent advice on these issues.
5. Cabinet authorised Ministers to make additional policy decisions, minor and technical changes, and related matters of detail to the policy decisions agreed by Cabinet, consistent with the general policy intent, on issues that arise in drafting of the Bill and its passage through the House, in consultation with relevant Ministers as appropriate [CAB-22-MIN-0250.02 para 84 refers].

6. This note provides officials' views on the outstanding policy issues and complements the more substantive SUIGG paper. This note also provides an update on preparations to Confidential advice to Government [REDACTED]

Confidential advice to Government [REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

Levy relief for low-income employees

Ministers have sought advice on reducing the impact of the employee levy

11. Ministers requested advice on options to reduce the impact of the employee levy, focussing on lowering the replacement rate to lower scheme costs. Cabinet noted that an option for a different replacement rate and levy structure would be preferred if it:
- met the scheme objectives, including providing a sufficiently high level of income smoothing to support workers back into good jobs
 - provided effective levy relief to low-income workers who would struggle to meet the cost of the levy
 - did not require Crown funding, and
 - was operationally feasible.

12. In addition to providing relief to those who would struggle to meet the cost of the levy (the affordability objective), two further equity-related concerns have been raised:
 - equity for genuinely casual workers: Some people with highly irregular hours of work (no clear pattern of work) will pay levies, but be less likely to qualify for insurance payments because they lack a reasonable expectation of future work, and
 - equity with the welfare system: For some family types, the welfare system already provides a replacement rate that is close to their pre-job-loss incomes. Such families will therefore receive a lower proportional gain from income insurance compared to higher-income families, despite both paying a flat rate levy.
13. In considering these equity concerns, it is worth noting that the scheme is expected to redistribute income to lower income people since they are likely to claim insurance more frequently. Further, the truly casual workforce is a very small proportion of the workforce and many people may only be in casual work for a period of their working lives. Analysis also shows that NZII will ensure a higher level of income protection than welfare alone, for all eligible people.

The replacement rate could be reduced to 70 percent, but this risks undermining the scheme's objectives

14. Changes to the employee levy could help to improve affordability and could help to respond to equity concerns. Reducing the scheme's replacement rate is one approach to reduce the employee levy.
15. The attached SUIGG paper includes an option to reduce the replacement rate to 70 percent. Including estimated behavioural impacts, this produces savings of between 20 – 27 percent for economic displacement and 17 – 22 percent for health conditions and disabilities.
16. A reduction in replacement rates could significantly impact the scheme's ability to support people back into good work and reduce wage scarring. Behavioural impacts would suggest strong pressure on claimants to return to work, rather than undertaking a considered job search for a good job. Further, we expect lower-income workers to be more impacted by the reduced replacement rate.
17. These behavioural impacts are highly uncertain. There is also considerable uncertainty in the cost estimates underpinning the NZII levy.

The SUIGG paper presents several options for alternative levy structures

18. The SUIGG paper outlines seven options for reducing the employee levy for lower income people. Two options that seek to improve affordability, address equity concerns, and minimise complexity are:
 - a levy-free threshold under \$14,000, with a lower levy rate above that of 1.28%, funded by savings from a 70 percent replacement rate, or
 - a lower levy rate of 0.77% under \$48,000, with 1.39% above that, funded by savings from a 70 percent replacement rate.

19. These options lead to the following weekly employee levy costs:

Pre-displacement (annual) gross income	Status quo (1.39% flat rate)	\$14k levy free zone, 1.28% above	0.77% under \$48k, 1.39% above
\$20,000	\$5.33	\$1.48	\$2.96
\$40,000	\$10.65	\$6.40	\$5.92
\$44,096 (full-time minimum wage worker)	\$11.74	\$7.41	\$6.53
\$80,000	\$21.31	\$16.25	\$15.63
\$120,000	\$31.96	\$26.09	\$26.28

20. Both the levy-free threshold and the lower levy rate provide a reasonable level of levy relief, but trade-off levy relief with scheme objectives. The savings estimates are highly sensitive to behavioural assumptions. Without any behavioural effects, savings are more modest, and would provide less levy relief.
21. Social Partners support maintaining the status quo (80% replacement rate, and flat-rate 1.39% levy). If the status quo is not preferred, NZCTU have proposed increasing the employer levy and a variation of a progressive levy structure. This structure is not aligned with the income tax thresholds, would increase effective marginal tax rates on middle income earners, and be poorly targeted to those who struggle to meet the cost of the levy. NZCTU have indicated the proposal could be modified to align with income tax thresholds, but this would increase the cost and require a higher employer levy. Business NZ oppose increasing the employer levy. We recommend that Ministers do not support this option.
22. Since none of the options can reliably meet all of the Cabinet's objectives, we recommend maintaining the status quo replacement rate, levy structure and levy rate.


Treasury Comment on Levy Relief and Overall Scheme Generosity

23. The Treasury considers the option of a step-down model could also meet Cabinet's objectives. As noted above, a reduction from 80% to 60% at three months could lead to behaviour change. While the international evidence on a step-down model is mixed, and not directly comparable to New Zealand, it seems likely that this model would yield material cost savings which could be used for levy relief.
24. A step-down model would impact on income smoothing, however, it would help further address the risks of moral hazard from a flat 80% replacement rate, which remain elevated notwithstanding the short duration.
25. While the step-down will impact on income smoothing from a generosity perspective, it would improve income adaption for those likely to be unemployed for longer than the scheme duration, i.e., in periods of higher unemployment. The short duration of the scheme, relative to schemes internationally, poses a 'cliff edge' which arguably runs contrary to the smoothing principle, whereas a step down allows for greater adjustment to post-scheme income levels.

26. A step down would be more operationally complex, as it takes the rate out of alignment with ACC, though a clear and simple shift at three months may mean this is at the lower end of complexity, in particular, relative to other options such as progressive changes in replacement rate.
27. If the step-down option is not progressed at this time, we recommend preserving policy space to review that setting at a later date.

Coverage for self-employment

28. When taking decisions on the introduction of the NZII scheme in July 2022, Cabinet considered that there would be clear benefits to including some self-employed workers in the scheme, particularly self-employed workers who closely resemble employees, but did not settle on a preferred coverage approach.
29. Officials have taken a fresh look at whether there are any further identifiable groups of self-employed workers with characteristics compatible with scheme coverage, and the desirability and feasibility of including them in NZII.
30. The options canvassed by the Forum to date have focussed on the degree of 'dependency' of self-employed workers (e.g. number of counterparties), but 'size' (turnover or number of employees) could be considered as a more definitive criterion of vulnerability.
31. Accordingly, we have looked at options for covering sub-groups of self-employed workers based on size, as well whether there are existing defined sub-groups of self-employed workers (e.g. occupations listed on Inland Revenue's list of scheduler payment activities) that could form a sensible basis for NZII coverage.
32. An overarching concern across these options is the boundary issues that come with attempting to define sub-groups of self-employed workers. A key risk is that workers with similar operations may end up on different sides of a boundary. Boundaries also increase the risk of excluding vulnerable workers and creating opportunities for some self-employed workers to adapt their business to be in or out of these definitions as they please. These factors, and the administrative complexity required to design and administer workable scheme settings for each sub-group, are likely to reduce the overall coherence and integrity of the scheme.
33. On the face of it, opt-in arrangements (previously considered by the Forum) appear an attractive alternative, given that they provide a high degree of choice and avoid the boundary issues set out above. But opt-in arrangements are problematic for social insurance schemes because they worsen adverse selection and moral hazard risks. These risks are only exacerbated for self-employed workers, who in general have more control over their affairs than employees, and the ability to arrange them to qualify for insurance.
34. In short, covering self-employed – especially for economic displacement - remains challenging and could complicate or delay the introduction of the Bill and establishment of the main NZII scheme.

35. Officials' strong recommendation is to exclude the self-employed from NZII initially in order to focus on establishing the main scheme for employees. Coverage of self-employment in some form could be reviewed following the go-live of the scheme when the effects of excluding the self-employed are clearer. Further policy work on self-employment – such as an in-depth review of international models – could also occur once the Bill is passed.
36. As previously advised, the SUIGG could also consider establishing a regulation-making power in the legislation to include some groups of self-employed at a later date (the 'call-in' option). However, identifying groups to be included in the schedule would be complex, and regulations would need to specify bespoke scheme settings for each group (most notably around the trigger for entry into the scheme and how levies will be calculated and collected, but also all other scheme architecture including contribution history requirements, whether a stand-down period would apply, abatement rules and penalties and enforcement provisions).
37. Legal professional privilege 
38. Alternatively, if the SUIGG desires some coverage for self-employed workers at the outset of the scheme, then the SUIGG could consider covering HCD for all self-employed workers. The moral hazard concerns surrounding the trigger event are relatively mitigated with HCD (although there is still some scope for gaming of income earned), but it is not without complexity, as other design elements of the main scheme, such as levy collection, contribution history and abatement rules, would need to be modified for self-employed workers. Consequently, covering the self-employed for HCD will, add further pressure to developing a Bill and establishing the scheme on schedule. Adding HCD coverage for the self-employed subsequently would be a lower risk approach.
39. The NZCTU are concerned that a failure to extend coverage to some self-employed groups creates a risk that workers are misclassified. Accordingly, their preference is to cover all self-employed for HCD from the outset, potentially in conjunction with the call-in option, which would at least signal an intention to cover groups of self-employed for economic displacement in the future, where possible.
40. Business NZ view the establishment of a call-in power as a good compromise for displacement coverage and that coverage of HCD is consistent with what is provided already by ACC. However, Business NZ's overarching concern about HCD coverage (for employees, as well as the self-employed) is that it will place larger than anticipated pressure on the scheme to the possible detriment of displaced workers.

Bridging payments

41. We understand that Ministers are further considering whether negotiated redundancy payments can meet employers' bridging payment obligations, and whether bridging should be payable to people not eligible for income insurance.
42. In June 2022, MBIE provided further advice on the proposal for bridging payments to be payable to all displaced employees, and in addition to negotiated redundancy provisions (MBIE briefing 2122-5096 refers).
43. Officials seek guidance on these two bridging payment policy issues to inform legislative drafting.

Bridging payments for people not eligible for NZII

44. In our June advice, MBIE noted that paying a bridging payment to displaced employees who are not eligible for income insurance:
 - avoids making this group of employees (especially temporary migrants) relatively more attractive to employers,
 - gives this group some protection from unnecessary redundancy,
 - provides some income protection if they are made redundant.
45. Overall, we consider that the reasons for applying the bridging payment to all displaced employees remain compelling.

Bridging payments for people with negotiated redundancy payments

46. The discussion document proposed that bridging would be payable in addition to any contractually negotiated redundancy compensation, given that existing contractual provisions may reflect an express or implicit wage sacrifice.
47. Our June advice noted, however, that allowing employers to meet the bridging payment requirement by paying contracted redundancy compensation that meets or exceeds the bridging requirement would:
 - still achieve the policy intent for NZII of discouraging unwarranted redundancies, and
 - avoid adding costs for employers who have agreed to contractual redundancy.
48. We consider this is ultimately a transitional issue, as collective agreements will be renegotiated, with the bridging payment serving as a new minimum floor and parties free to negotiate around this.

Other matters covered in the SUIGG paper

Treaty of Waitangi clauses

49. Cabinet has agreed to include a Treaty of Waitangi/Tiriti o Waitangi provision in the Bill to recognise and respect the Crown's responsibilities, with reference to specific provisions within the Bill.
50. Cabinet noted that officials will work with the Pou Tangata Skills and Employment Iwi Leaders Group (SE ILG), Crown Law Office, and the Te Arawhiti-convened Treaty Provisions Officials Group (TPOG) to develop well-balanced and workable Treaty/Tiriti provisions [CAB-22-MIN-0250.02 refers].
51. Officials have engaged with TPOG and continue to work with the SE ILG on the provisions. Provisions will focus on a purpose and commitment to NZII working for Māori both at the outset and overtime. Provisions will also ensure Māori have equity of access to NZII and that NZII is responsive to Māori, so Māori benefit from the scheme in the same way as others.
52. Specific governance, and reporting and monitoring provisions would aim to ensure:
 - iwi/Māori are involved in and engaged at all levels of NZII, particularly on matters and decisions that impact them, and
 - accountability and transparency to iwi/Māori on outcomes and NZII's performance for Māori through regular monitoring and reporting.
53. Work is also underway on drafting instructions for the Accident Compensation (AC) Amendment Bill which is progressing on the same timeframe as the NZII Bill. The AC Amendment Bill will include new duties for ACC to report on levels of access, and any disparities for Māori and other groups that experience barriers to the AC scheme, similar to what is being considered for NZII. We will work to ensure consistency where appropriate across similar provisions in the respective Bills.

Crisis payments

54. In agreeing to the detailed design of the NZII, Ministers noted their intention for the scheme to have the flexibility to provide additional Crown-funded support during a crisis.
55. Introducing NZII will significantly improve New Zealand's resilience to economic crises. Further, the operational systems the ACC is establishing will provide the government with a further set of tools that can be combined with the capabilities (and information sets) maintained by partner agencies to support a crisis response – such as measures to maintain job attachment. The need for cross-agency collaboration has been a consistent theme from recent crisis responses. For example, Inland Revenue played a key role supporting the Ministry of Social Development to deliver the Wage Subsidy Scheme.

56. It is not possible to foresee with any reliability the nature of the next economic crisis, and even less possible to anticipate an appropriate response. Experience suggests that a preferred response can only be decided once the nature of crisis is clear. This means there are risks in building dedicated crisis response functions into NZII. Dedicated functions may not be suitable to the nature of the crisis, as well as the preferred response. It is difficult to forecast what crisis management capability could be needed.
57. It would be useful, however, to specify in legislation that Ministers can direct the ACC to use NZII's administrative capabilities to support responses to economic crises. The provisions would make it clear that any payments outside the usual eligibility conditions would be a cost to the Crown. The provisions could also note that the scheme would likely be participating in partnership with other agencies in responding to an economic crisis.
58. We understand that social partners also support this approach.

Coverage for non-standard employment

59. Cabinet has agreed that NZII will cover those in non-standard employment arrangements (fixed-term, seasonal and casual) for loss of work.
60. Given the challenges in determining when a loss of work has occurred for these employees – especially for casual employment – Cabinet has agreed that NZII will take a principles-based approach: income insurance will cover the loss of income from reasonably anticipated work, with entitlements based on a person's established pattern of work [CAB-22-MIN-0250.02 refers].
61. Three key questions remain:
 - how to apply the principles-based approach to determine there has been a loss of reasonably expected work, especially for casual employment,
 - who is to determine there has been a loss of reasonably expected work, and
 - how to resolve disputes about expectations for future work.
62. Answering these questions requires careful judgement since:
 - there is inherent uncertainty as to expectations of future work for people engaged in highly intermittent work of a casual nature,
 - in defining evidence for such expectations, there is a risk of inadvertently creating new 'bright lines' with the potential to drive employer behaviour (e.g. to avoid giving an employee an expectation of future work, and therefore avoiding liability for bridging payments), and
 - there is a risk of complicating the existing the Employment Relations & Employment Standards System (ERES), and its role in relation to the ACC and NZII.

63. Since it is difficult to identify a clear “bright line test” for expectation of future income, primary legislation could set out a short list of verifiable factors (based on existing employment case law considerations) to be considered when determining whether a person had a reasonable expectation of future work with an employer.
64. These considerations are still in development but would likely include whether an employer has given an express commitment of future work, the duration worked for the employer, and evidence provided of a regular and consistent pattern of work with the employer.
65. Regulations could also specify circumstances (safe harbours) under which a person would automatically be deemed to have met the ‘reasonable expectation of future work’ standard.
66. Officials have been working to ensure that the drafting of this provision aligns with existing employment law practices (and avoids creating additional parallel ‘scheme-specific’ categories) and can be practically implemented.
67. The discussion document envisaged the proposed test of reasonable expectation of work as establishing a test that is independent of the employment relationship, enabling ACC to determine NZII eligibility, while preserving determinations about the nature of the employment relationship for the ERES.
68. While empowering ACC to make these judgements could enable timely resolution and access to insurance, this could also duplicate and complicate existing employment resolution mechanisms.
69. We are continuing to work through the intersection between the ERES and NZII.

Offences, penalties and enforcement

70. The discussion document proposed that the Scheme would take enforcement action where necessary, with means to take appropriate action to collect levy payments, and to deter and respond to misrepresentation. The discussion document provided relatively little detail on offences, penalties, and enforcement.
71. Many of the existing penalty and offence provisions in the Accident Compensation Act (AC Act) can be used for NZII. These include penalties related to overpayments and unpaid levies, offences related to misleading and not providing information to the Corporation, and limitation periods.
72. Once the scheme is established, employers will need to provide a notice period and bridging payment to their employees and notify the scheme of any redundancies. These are new employer obligations where there are no existing offences, penalties or enforcement mechanisms.
73. Ministers are considering further whether negotiated redundancy payments can meet employers’ bridging payment obligations, and whether bridging should be payable to all workers made redundant irrespective of their eligibility for NZII.

74. If the bridging payment is to apply to all workers made redundant, including those not eligible for NZII payments, it could potentially constitute a new minimum employment standard, forming part of the employment relationship. As such, the Employment Relations and Employment Standards (ERES) system would enforce the obligation. If the bridging payment was only payable to NZII claimants, the ERES system could still have an enforcement role, but it would make the role more difficult as they would need to first determine whether someone was eligible for NZII.
75. We anticipate that in permanent employment situations, redundancy is most likely to arise from a restructuring situation. We expect that most employers will comply with their requirements in relation to notice and bridging.
76. Cabinet has agreed that in the case where an employer cannot pay the bridging payment due to insolvency, the scheme will pay, with ACC recovering the debt. The scheme would only pay the bridging payment when it receives notification of a redundancy.
77. There could be other situations where the scheme does not receive notification of a redundancy and the employer does not pay a bridging payment. In these situations, it would be assumed there is a dispute and it would need to be resolved within the Employment Relations and Employment Standards (ERES) system before a determination of eligibility for the bridging payment or NZII payments could be made.
78. These disputes will be more complicated where there is fundamental dispute about the nature of employment relationship.
79. No further decisions are needed from Ministers at this time while officials continue to work through aspects of enforcement, and the intersection between the ERES and NZII.

Information sharing arrangements

80. Cabinet has requested further advice on information sharing arrangements for the Scheme.
81. The effective operation of the Scheme requires personal information for accurate levying and assessment and management of claims. Scheme information will also be important for determining full and correct entitlements from other government services.
82. The attached SUIGG paper canvasses a range of options to enable information sharing including providing a specific provision in legislation or via Approved Information Sharing Agreements (AISA) under part 7 of the Privacy Act 2020.

83. On balance, we propose that the NZII Bill enable ACC to obtain and use information for NZII and share NZII information with other Government agencies to support service delivery. The legislation should:
- enable ACC's information sharing agreements with agencies to be consolidated across the AC and NZII schemes, so that accountability and technical provisioning can be simplified; and,
 - establish mutual information sharing between ACC and other key agencies including Inland Revenue and MSD to ensure claimants receive full and correct entitlements, avoid accumulation of government debt, and support scheme functionality which is to be administered across agencies as most efficient.
84. This approach is supported by delivery agencies including ACC and Inland Revenue. The Office of the Privacy Commissioner has expressed an initial preference for an AISA. We are engaging with the Office of the Privacy Commissioner to ensure our approach substantively addresses privacy concerns.
85. No further decisions are sought from Ministers at this time on information sharing.

Next steps

86. Officials are available to discuss with Ministers the outstanding policy issues discussed in this paper. The scheme's replacement rate, levy structure, coverage for self-employment, and bridging payment eligibility are the more pressing issues to resolve. Subject to direction from Ministers, officials propose to draft a Cabinet paper to confirm Ministers' preferred policy choices in these areas.
87. We will bring advice to Ministers with delegated authority on the remaining issues as appropriate, to inform legislative drafting.

Attachment

Briefing to the SUIGG: New Zealand Income Insurance – Outstanding Policy Issues

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To: Social Unemployment Insurance Governance Group
From: Social Unemployment Insurance Working Group
Date: 30 August 2022
Briefing: New Zealand Income Insurance – outstanding policy choices

Purpose

1. To provide advice on outstanding policy issues for New Zealand Income Insurance (NZII).

Executive summary

2. On 4 July 2022, Cabinet agreed to introduce NZII and made decisions on the detailed design of the scheme. Cabinet invited Ministers to report back to Cabinet on a set of outstanding policy questions by October 2022, ahead of introducing a NZII Bill to the House in December.
3. This paper provides options and advice on the outstanding policy questions, including:
 - a. *Levy relief for low-income employees:* The Cabinet paper noted ministers would receive further advice on whether a lower replacement rate could fund effective levy relief, whilst maintaining the scheme's objectives and being operationally feasible, and not requiring Crown funding. The working group has considered a range of options (detailed in this paper) for adjusting the replacement rate and levy structure to provide effective levy relief for low-income employees while meeting Cabinet's objectives. Key options to consider include:
 - i. reducing the replacement rate to 70%, which could fund either a levy-free zone, a lower levy rate under \$48,000, or a lower flat rate levy. Assuming significant behavioural impacts from the reduced replacement rate, significant levy relief could be funded, but at the cost of the scheme's income smoothing and ability to support workers back into good work
 - ii. alternatively, levy relief could be funded through increasing the levy burden for high-income workers and an increased employer levy.

No option meets all of objectives identified above and we therefore recommend maintaining the status quo replacement rate and levy.

- b. *Coverage of self-employed workers:* Key options to consider include excluding self-employed workers initially (in order to focus on establishing the main scheme for employees) and reviewing coverage post-implementation, creating a 'call-in' power in primary legislation (to be exercised via regulation to call specific groups into the scheme), or covering all self-employed for health conditions and disabilities only.

The social partners favour creating a 'call-in' function' for the self-employed for economic displacement, and favour covering all self-employed workers for HCD.

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- c. *The role of NZII in responding to economic crises:* We recommend a provision in the Bill clarifying that the scheme could contribute to a wider government response such as a wage subsidy (or equivalent), noting that the scheme will already go some way to adding to the framework of supports available to workers in the event of a future crisis.
- d. *Further advice on enforcement, offences and penalties:* We recommend applying existing offence and penalty provisions in the AC Act to NZII and increasing the penalty for not providing requested information to the scheme to make it reflect the seriousness of the offence.
- e. *Arrangements for obtaining and sharing personal information required to administer NZII:* We propose that legal authority for information sharing arrangements between ACC and other agencies, which are necessary for the operation of the scheme and related government services, be established in legislation to enable ACC and agencies to operationalise the scheme within the timeframe. Officials will continue to work with the Office of the Privacy Commissioner and report back to Ministers in October to confirm the preferred approach.
- f. *How to provide effective coverage for non-standard workers (fixed-term, seasonal and casual):* We propose that legislation set out factors to be considered whether determining whether a person had a reasonable expectation of future work with an employer. Regulations would also set out the circumstances (safe harbours) under which a person would automatically be deemed to have met the standard. The detail of the approach will be confirmed in the November Cabinet paper.
- g. *Bridging payments:* The discussion document envisaged that bridging payments would be additional to negotiated redundancy terms. Both social partners support this approach.

Recommendations

We recommend that you:

1. **Note** that on 4 July 2022, Cabinet agreed to introduce NZII and made decisions on the detailed design of the scheme
2. **Note** that Cabinet invited Ministers to report back on outstanding policy issues by October
3. **Note** this paper has been developed in consultation with the Council of Trade Unions and Business New Zealand
4. **Note** that a key issue to confirm is the replacement rate and levy structure
5. **Note** that the Social Unemployment Insurance Working Group recommend maintaining the status quo of an 80 percent replacement rate and a flat-rate levy
6. **Discuss** the options presented in this paper and provide direction to officials.

Privacy of natural persons

Francis van der Krogt
Acting Manager, Income Insurance Policy
___ / 08 / 2022

Background

4. On 4 July 2022, Cabinet agreed to introduce New Zealand Income Insurance (NZII) and made decisions on most of the detailed design of the scheme. Design decisions included:
 - scheme coverage
 - scheme entitlements
 - claimant and employer obligations
 - obligations and expectations for employers that apply whether or not the employee is eligible for NZII
 - scheme delivery and funding
 - dispute resolution
 - governance and funding of NZII [CAB-22-MIN-0250.02 refers].
5. Work is now underway to produce a NZII Bill that reflects these policy decisions.
6. Cabinet invited the Ministers of Finance, Social Development and Employment, ACC, Revenue, and Workplace Relations and Safety to report back to the Cabinet Economic Development Committee by October 2022 on outstanding policy issues relating to:
 - further options for reducing the impact of the NZII levy on low-income workers
 - further coverage choices for self-employed workers
 - the role of NZII in responding to economic crises
 - further advice on enforcement, offences and penalties
 - arrangements for obtaining and sharing personal information required to administer NZII
 - how to provide effective coverage for non-standard workers (fixed-term, seasonal and casual).
7. In addition to the outstanding policy issues, we understand that Ministers are considering two aspects of the bridging payment, namely whether all displaced workers should receive bridging payments (or only those eligible for NZII), and whether negotiated redundancy payments can meet employers' bridging payment obligations. A summary of these issues is set out in section G.
8. Cabinet authorised Ministers to make additional policy decisions, minor and technical changes and related matters of detail to the policy decisions agreed by Cabinet, consistent with the general policy intent, on any issues that arise in drafting of the Bill and its passage through the House, in consultation with relevant Ministers as appropriate [CAB-22-MIN-0250.02 para 84 refers].
9. This paper has been developed in consultation with the Council of Trade Unions and Business New Zealand.

Outstanding policy choices

A. Low-income workers may struggle to meet the cost of the levy

10. In April 2022, officials provided initial advice on mitigating the impact of the NZII levy on low-income workers and their families. This advice canvassed a range of options, including introducing progressivity into the levy (e.g., a levy free threshold), providing support via Working for Families and other tax credits, or providing bespoke support, such as refunds or a levy credit. Each option had shortcomings including poor targeting, increased cost, administrative complexity for agencies, workers and employers, or poor timeliness [2122-4101 refers].
11. In June 2022, Cabinet agreed that NZII would have an 80 percent replacement rate, funded by a flat-rate levy, but noted that Ministers were concerned about the ability for low-income workers and their families to pay the levy. Cabinet noted that Ministers would receive further advice on these settings, in particular, whether a reduced replacement rate could fund a lower levy burden for low-income workers who may struggle to meet the cost of the levy. Our analysis has focussed on this framework, whilst also considering an additional two problem definitions, set out below.
12. NZII is proposed to be funded through a compulsory levy of 2.77 percent, with employers and employees each paying 1.39 percent, up to an income cap of \$136,544. For a full-time minimum wage worker (\$21.20 per hour), this would mean paying a levy of \$11.74 per week from a gross income of \$848.¹
13. Three concerns have been raised about the flat-rate levy.
 - a. **Affordability:** Whilst workers will benefit from the scheme if they lose work, the levy may be difficult to afford for some workers, particularly those who already struggle to meet their essential costs. Around 8-10 percent of households with a full-time worker are below select poverty lines, with around 9 percent experiencing material hardship. The affordability of the new levy for low-income workers was a consistent theme through public engagement, and with the Pou Tangata Skills and Employment Iwi Leaders Group.
 - b. **Equity for genuinely casual workers:** Concerns have been raised about workers who may be unlikely to access the scheme, particularly genuinely casual workers with irregular and unpredictable work. Consistent with the scheme's objectives, casual workers who can show a reasonable expectation of work and regular pattern of work will be eligible for support. Those without this expectation would pay a levy (and build their contribution history) but would not be able to access the scheme from that form of employment.
 - c. **Equity with the welfare system:** There are concerns about the relative gain from NZII compared to the welfare system, given all workers pay a flat rate 1.39 percent levy. Some people who lose work already stand to receive a relatively high replacement rate from the welfare system, particularly low-income single people and sole parents.

¹ Depending on family and other circumstances, working people may also receive transfer payments (such as Working for Families and the Accommodation Supplement) that increase incomes. These payments will not be subject to the NZII levy.

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Overall, NZII is expected to be redistributive in favour of lower income families, and provides greater support than welfare alone

14. We consider that there are three key points to raise in relation to these equity concerns. Firstly, a person's likelihood of claiming from the scheme is dynamic over time, as labour market circumstances and health change over the life course. For example, casual workers are more likely to be young and combining work with education and will likely move into permanent employment. The relative benefit compared to the welfare system will also vary. A single person or sole parent may expect a high replacement rate from the welfare system, but a much lower (or no) rate if they enter a relationship.
15. Secondly, low-income individuals are expected to have more triggering events (displacement and health conditions and disabilities), and hence they will access the scheme more often than higher-income families. Taking into account both levies and entitlements, the scheme is therefore expected to redistribute income from high-income to low-income families. This means people on low incomes will benefit disproportionately from NZII, despite being eligible to receive welfare.
16. Thirdly, all people will receive greater support with NZII in place compared to the status quo, as NZII payments will be charged as regular income. This means people will be better off but may receive an abated welfare entitlement. This ensures the welfare system's purpose of providing a minimum standard of living is upheld, and that the loss of employment income is effectively insured. **Annex One** illustrates this impact via example families.
17. Overall, we consider that the redistributive nature of the scheme, combined with the dynamic nature of labour market, health, and family circumstances, mitigates the potential equity concerns relating to casual workers and the welfare system.

Cabinet has directed parameters for exploring levy relief

18. Affordability of the levy for low-income workers remains an issue. Cabinet directed officials to consider how to reduce the levy burden on low-income workers and their families who struggle to meet their essential costs, and to make up the funding shortfall by reducing the scheme's replacement rate from 80 percent.
19. Cabinet provided parameters to guide this analysis:
 - a. meet the scheme objectives, including providing a sufficiently high level of income smoothing to support workers back into good jobs (this means maintaining a reasonably high replacement rate)
 - b. provide effective levy relief to low-income workers who would struggle to meet the cost of the levy
 - c. no Crown funding, and
 - d. is operationally feasible.

Relief could be provided through changing the levy, but would not be well targeted to those struggling to meet their essential costs

20. There are two broad options for reducing the levy burden for low-income workers. Firstly, the flat-rate levy could be reduced from 1.39 percent. This would be administratively straightforward. However, all levy payers receive the same proportional reduction in levy paid, meaning high-income earners would receive a significant amount of the total levy relief.

IN CONFIDENCE

21. Alternatively, relief could be targeted by introducing progressivity into the levy. One or more thresholds could be introduced, with lower income earners charged little or no levy. Whilst support would be more targeted, higher income earners would still receive some relief, as part of their income is below the thresholds and levied at a low rate or exempt.
22. Providing relief through the levy is not well targeted to those who struggle to meet their essential costs. Put simply, there are many low-income earners in high-income households (e.g., teenagers working part-time and living with high-income parents), and vice versa (e.g., high-income sole breadwinners in large families). Levy relief will therefore go to high income households and may miss some low-income households.
23. Greater progressivity also increases administrative burden for employers, workers, and scheme administrators. Employers do not collect data on whether their employee has multiple jobs and real-time tracking of individual incomes is not practical, therefore it is likely that individuals with multiple jobs or inconsistent income will pay an incorrect levy during the year. In practice, the secondary tax rates would be increased to cover the cost of the levy and may decrease perceived work incentives for multiple job holders. These problems exist within the existing progressive income tax system. This may require an administrative process called a 'square-up' where IR calculates everyone's actual liability and sends them a bill (or refund) at the end of the tax year. The question of whether to perform an administrative square-up is discussed in **Annex Two**.

Reducing the replacement rate could produce savings to fund levy relief, but the level of savings is highly uncertain and dependent on behavioural assumptions

24. We have analysed three options for reducing the scheme's replacement rate, which are broadly consistent with the scheme's objectives and are operationally feasible:
 - a. a reduced replacement rate to 70 percent
 - b. a stepped-down replacement rate based on duration of the scheme. Claimants could receive an 80 percent replacement rate for three months and a 60 percent replacement rate for the remaining three months
 - c. a stepped replacement rate based on income. Income up to the median income (\$56,836 in 2021) could be replaced at 80 percent, and income between the median and the maximum payment cap replaced at 40 percent.
25. The first two options will have flow-on impacts for the welfare system. As income insurance decreases, welfare may increase to offset this (depending on a person's circumstances). Reducing the replacement rate will therefore mean low-income families receive relatively less gain from the introduction of NZII, exacerbating the concerns about the relative gain from NZII.

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Estimating the behavioural effects, and therefore cost savings, is challenging

26. There are two ways to model the likely cost savings of these replacement rates. The first is a simple model, which keeps the expected number of claims and average time spent on the scheme constant², but reduces the amount of money paid to these claimants. This leads to reductions in scheme costs of between 8 – 11 percent.
27. However, international research is clear that reduced payments will lead to behavioural change, with fewer people receiving support for a shorter period. These behavioural impacts were incorporated into the original costings via the use of overseas comparisons. The Treasury has modelled the potential behavioural impacts of the 70 percent replacement rate.³ The modelling is based on a Motu literature review, which informed the original costing for the scheme. This review noted that there is significant uncertainty in the potential behavioural impacts, particularly in the New Zealand context.
28. Including both the reduced payments and potential behavioural change, the Treasury's model indicates that the potential savings increase to around 20-27 percent for economic displacement and 17-22 percent for health conditions and disabilities.

Larger behavioural impacts would undermine the objectives of the scheme

29. The scheme is intended to shift behaviours in the economy and allow workers an opportunity to engage in considered job search. The reduction in replacement rates could significantly impact the scheme's ability to support people back into good work and reduce wage scarring. Behavioural impacts of this size indicate that people would feel greater pressure to return to a job, rather than undertaking a considered job search for a good job. Further, we expect lower-income workers to be more impacted by the reduced replacement rate, as international evidence indicates they are more likely to benefit from more generous financial support to return to a good job.

There are a range of ways to provide levy relief

30. Overall, we have identified seven potential options targeted to the three potential problem definitions, which have different funding options:

Funded by a 70 percent replacement rate⁴

- a. Option one: lower levy rate of 0.77 percent under \$48,000, with 1.39 percent above that

² For economic displacement, the costing assumes 112,300 claims with an average duration of 4.9 months and 135,000 claims with an average duration of 2.7 months for HCD. The Cabinet paper noted this estimate was based on a conservative approach, based on a range of modelled cost estimates, with the intent of ensuring the scheme is sustainable in its early years.

³ In the time available, and given limitations in available overseas evidence, we have only been able to include behavioural impacts for the reduced flat rate option, and not the duration or income-based replacement rates.

⁴ This includes assumed behavioural change. Given the uncertainty in the potential behavioural impacts, we have modelled the levy relief option on the low-end of the potential behavioural impacts. This is consistent with taking a more conservative approach to ensure the scheme does not under collect levy in its early years.

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- b. Option two: a \$14,000 levy free threshold could be funded, with some additional funding to offset the levy above \$14,000 (to 1.28 percent), funded by a 70 percent replacement rate
- c. Option three: lower overall rate of 0.92 percent, funded by a 70 percent replacement rate

Funded by increased levies for others

- d. Option four: Levy-free threshold of \$23,000, with income above levied at a higher rate (which would be around 50 percent higher, or around 2.1 percent)⁵, funded by higher levy rates for higher income earners
 - e. Option five: Levy-free threshold of \$32,864, with income above levied at a higher around (around 80 percent higher, or around 2.5 percent)⁶, funded by higher levy rates for higher income earners
 - f. Option six: Multiple rates/thresholds funded by high income earners
 - g. Option seven: Multiple rates/thresholds funded by a higher employer levy of 1.6 percent (NZCTU proposal).
31. These replacement rates only apply to the employee levy; and, with the exception of Option seven, the employer levy remains a flat rate 1.39 percent

The options for levy relief funded by lower replacement rates trade-off scheme objectives

32. Cabinet instructed officials to consider providing levy relief via a reduced replacement rate, which trades-off scheme objectives with relief. However, a lower replacement rate exacerbates the equity with welfare concerns. Levy relief funded by lower replacement rates can therefore address the affordability and equity for casual workers concerns.

Support improved affordability

33. As noted earlier, in-work poverty and hardship is present amongst families with full-time workers. This means relief should be spread across the income spectrum to support those in full-time work (for reference, a full-time minimum wage worker earns \$44,096). Targeting support to this group could be provided by:
- a. Option one: lower levy rate of 0.77 percent under \$48,000, with 1.39 percent above that.

Improve equity for casual workers

34. Finally, support could be targeted to casual workers employed intermittently. As at June 2022, there were 91,300 casual workers, though we do not know how many of these could show a reasonable expectation of work (and therefore access the scheme). These workers earned a median weekly income of \$357, or \$18,564 annually. Those working intermittently are likely to earn less than this.

⁵ In the time available, these options were not able to be thoroughly vetted. These numbers should be treated as indicative only.

⁶ As above, this number is indicative.

IN CONFIDENCE

35. To address concerns about equity for casual workers, a levy-free threshold could be introduced to ensure they do not pay a levy. However, many part-time workers and casual workers with reasonable expectation of employment will also benefit from this option and pay no levy but receive a benefit from income insurance.
 - a. Option two: a \$14,000 levy free threshold could be funded, with some additional funding to offset the levy above \$14,000 (to 1.28 percent).

Administratively simple option

36. Finally, as noted above, the overall levy rate could be decreased. This is the administratively simplest option:
 - a. Option three: lower overall rate of 0.92 percent.

The remaining options increase costs for others

37. If equity with welfare is the primary concern, an alternative funding option to a reduced replacement rate would be required. Additional funding could either be found through increasing levy rates for higher income earners or on employers.
38. The discussion document proposed an option of a \$23,000 per year levy-free threshold. This was intended to ensure that someone who would be eligible for the Jobseeker Support (using the rate for a single person aged over 25) was made unemployed, and had an average risk of unemployment, would not contribute more than they would expect to receive from the scheme.
39. There are several choices for a potential threshold, depending on the level of welfare support received. Beneficiaries aged under 25 receive a lower rate of Jobseeker Support, rates of other main benefits are higher (e.g., Sole Parent Support and Supported Living Payment), many beneficiaries receive supplementary and/or hardship assistance (e.g., Accommodation Supplement, Disability Allowance, and Temporary Additional Support), and beneficiaries with children also receive Working for Families tax credits.
40. As an additional option, the levy-free threshold could be aligned to the top rate of the Minimum Family Tax Credit (\$32,864), which is intended to maintain financial incentives for families with children to enter work, so that they are better off in work than receiving a main benefit.
41. This provides two options. Note that, in the time available, these options have not been robustly vetted and these numbers should be treated as indicative only:
 - a. Option four: Levy-free threshold of \$23,000, with income above levied at a higher rate (which would be around 50 percent higher, or around 2.1 percent)
 - b. Option five: Levy-free threshold of \$32,864, with income above levied at a higher around (around 80 percent higher, or around 2.5 percent).

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42. Alternatively, levy relief could be funded by increasing the levy imposed on high-income earners or employers and maintaining the 80 percent replacement rate:

Option six: Multiple rates/thresholds funded by high income earners	Option seven: Funded by employers (NZCTU proposal, increasing employer levy to 1.6 percent)
<ul style="list-style-type: none"> • \$0 - 48,000: 0.7 percent • \$48,001 - 70,000: 1.6 percent • \$70,000 + (with no maximum levy cap): 2.25 percent 	<ul style="list-style-type: none"> • \$0 - 40,000: 0.7 percent • \$40,001 - 60,000: Increasing effective rate from 0.7 percent to 1.39 percent • \$60,001 – 136,544: 1.39 percent

43. Option six also removes the maximum leviable cap, shifting away from the principles of a levy towards the principles of general taxation. Earners over the cap will be charged progressively greater amounts for the same amount of cover as someone earning at the cap, or put another way, will be charged an additional tax on uninsured income. The increase in the number of thresholds and rates also creates additional administrative complexity. **Annex Four** provides more detailed rationale and analysis of options six and seven.
44. NZCTU have indicated their option could be changed to align with income tax thresholds, though this would increase the cost of the option. BusinessNZ do not support increasing the employer levy, and wish to see costs to businesses and employees constrained and consider that increasing costs beyond the original proposition of 1.39% will generate opposition.

The options provide different levels of relief at different income levels

45. These options lead to the following weekly levy cost (see **Annex Three** for analysis by household):

Weekly levy impost of levy relief options at various income levels

Note: Earners who pay more under the alternative options are highlighted in red

Pre-displacement (annual) gross income	Flat rate 1.39%	1. 0.77% under \$48k	2. LFT under \$14k, 1.28% above	3. Flat rate 0.92%	4. LFT under 23,000, higher levy above	5. LFT under \$32,864, higher levy above	6. Multi-rate levy	7. NZCTU levy
\$20,000	\$5.33	\$2.96	\$1.48	\$3.54	\$0.00	\$0.00	\$2.69	\$2.69
\$40,000	\$10.65	\$5.92	\$6.40	\$7.08	\$6.87	\$3.43	\$5.38	\$5.38
\$44,096 (f/t minimum wage)	\$11.74	\$6.53	\$7.41	\$7.80	\$8.52	\$5.40	\$5.94	\$7.39
\$80,000	\$21.31	\$15.63	\$16.25	\$14.15	\$23.02	\$22.66	\$17.56	\$21.31
\$120,000	\$31.96	\$26.28	\$26.09	\$21.23	\$39.17	\$41.89	\$42.02	\$31.96
\$240,000 (above max levy cap)	\$36.37	\$30.69	\$30.16	\$24.16	\$45.85	\$49.85	\$86.79 (no max levy cap)	\$36.37

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46. The levy-free thresholds of \$23,000 and \$32,864 are late additions to the paper, so should be treated with more caution than the other estimates.
47. As options four – six are funded by higher levies on higher-income earners, some earners pay more levy than under the status quo. As noted previously, using the levy to provide relief is not well targeted, and will provide relief up the household income spectrum, and misses some of those in the lower half of the income spectrum. For example, for option six, approximately:
 - a. 56,000 households in the top income decile receive an average of \$5 of levy relief,
 - b. 24,000 households in the bottom half of the income distribution pay an additional \$2-4 per week.
48. This is considered further in **Annex Four**.
49. Options one, two, and six align with existing income tax thresholds. Aligning with these thresholds creates significant administrative efficiencies compared to creating new thresholds, particularly for those paying secondary tax. Currently secondary tax codes are a flat rate reflecting a person's income over and above their primary job. For example, a person with \$30,000 total income with \$20,000 from their primary job and \$10,000 from their second job would use a M tax code for their primary job and a S secondary tax code (i.e., a flat rate 17.5% tax code).
50. However, if a levy-free threshold was set at say \$23,000, then \$3,000 of their second job income would have no levy and \$7,000 would be levied. This means additional secondary tax codes would need to be created, increasing complexity for customers, employers, payroll providers, and scheme administrators.

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51. The following table assesses the options against the problem definition and criteria identified earlier:

Levy relief option	Funding option	Income smoothing	Levy affordability	Equity with welfare system	Equity for casual workers	Operational feasibility
1. 0.77% under \$48,000, 1.39% above	70% replacement rate	✗	✓✓	✓	✗	✓
2. 0% under \$14,000, 1.28% above	70% replacement rate	✗	✓✓	✓	✓	✓
3. Lower rate of 0.92%	70% replacement rate	✗	✓	✗	✗	✓✓
4. Levy-free threshold of \$23,000, significantly higher rates above	Higher levy on other levy-payers	✓✓	✗✗	✓✓	✓✓	✗
5. Levy-free threshold of \$32,864, significantly higher rates above	Higher levy on other levy-payers	✓✓	✗	✓✓	✓✓	✗
6. Multiple threshold/rate	Higher levy on other levy-payers	✓✓	✓	✓	✗	✗
7. NZCTU option	Higher levy on employers	✓✓	✗	✓	✗	✗

The key decision relates to the structure of the levy, given the uncertainty of the levy rates

52. The potential savings, and hence funding available for levy relief, are highly dependent on how people respond to a lower replacement rate. For example, if the behavioural assumptions were excluded, a reduced replacement rate would only fund a reduced levy to 1.16 percent, or a lower levy rate under \$14,000 of 0.54 percent. Higher behavioural responses could also be unhelpful for the scheme's objectives, if people were more reluctant to claim insurance (even though eligible) or felt pressured to take up new jobs quickly (even though a longer job search or recovery period could be beneficial).

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53. In addition to incorporating uncertain behavioural impacts, the levy rates needed to fund the scheme are sensitive to a range of other factors. Of particular relevance is the impact of wage growth over time. A progressive levy with fixed thresholds will raise more revenue over time, as wage growth pushes more income into the higher-levy thresholds. High levels of wage growth until scheme implementation could therefore raise more revenue than expected, and vice versa.
54. The levy rates proposed, and the potential levy relief funded, reflect our best estimates of such factors. We consider that it would be prudent to re-evaluate the levy prior to scheme implementation to ensure it reflects the latest information and data on the likely cost of the scheme. The key decision in this paper is on the *structure* of the levy (i.e., flat rate or progressive).

Comments

55. Overall, no options achieve all the objectives set out by Cabinet. Reducing the replacement rate to 70 percent could generate significant savings but this depends on the behavioural assumptions used. Higher levels of behavioural change create greater savings, funding more levy relief, but risks undermining the scheme's objectives. The overarching trade-off is therefore between levy relief and the scheme's objectives.
56. Given that the overall objective of the scheme is to smooth incomes following job loss and enable people to hold out for a job that better utilises their skills, we recommend maintaining the 80 percent replacement rate, and levy structure. Social partners also support maintaining the status quo of an 80 percent replacement rate and flat-rate levy.

IN CONFIDENCE

B. The Forum has requested further advice on options to cover certain groups of self-employed people

Background

57. The inclusion of self-employed workers in the NZII has been the subject of significant consideration throughout the scheme's development. Coverage of self-employment is challenging for income insurance schemes, because the notion of redundancy is fundamentally at odds with being genuinely in business for and employing oneself.
58. A central tension is that excluding self-employed workers from coverage may incentivise the reclassification of work arrangements to avoid paying levies. Conversely, including self-employed workers – especially for displacement-like events - creates integrity risks, as many self-employed workers have greater control over their income and the ability to arrange their affairs to access insurance payments. Covering self-employment also risks distorting business decisions by shifting business risks from the self-employed to the scheme. Opt-in arrangements magnify this risk.
59. The key challenge in attempting to mitigate these risks and provide NZII coverage to self-employed workers is that the self-employed are an incredibly diverse group. This catch-all category includes highly vulnerable workers who resemble employees, contractors and freelancers with varying degrees of dependence, platform workers, sole traders, small business owners, and entrepreneurs with numerous employees. The only true unifying feature of the cohort is that they are not (technically) employees.
60. This makes it challenging to design rules, particularly around the triggering event for eligibility (an equivalent to a no-fault job loss), that are simple and would apply sensibly to such a diverse group. Equally, drawing boundaries within this group (to provide targeted coverage to some sub-groups of self-employed) is not easy and risks introducing further inequities.
61. We also know less about how often, and for what reasons, self-employed workers move in and out of work, compared with standard employees. Therefore, including self-employed workers risks making the cost of the scheme more uncertain and could potentially increase its cost to all workers if self-employed workers move in and out of work more often than other workers.
62. For these reasons, international income insurance schemes have struggled to effectively include self-employed workers. Comparable jurisdictions have chosen to establish the scheme for employees first, before looking (in some but not all instances) to introduce some form of coverage for self-employed workers at a later point.⁷
63. Coverage for health conditions and disabilities is less prone to moral hazard issues⁸, but is not without complexities.

⁷ Many European countries have only recently extended income insurance coverage to self-employed workers. For example, France, Denmark and Ireland have been operating income insurance schemes from as early as 1958, but self-employed coverage was only introduced between 2017 and 2019. Similarly, Spain and Austria's schemes have been operating for over 40 years, but only introduced coverage for self-employed workers from 2009. Coverage in these jurisdictions has tended to be opt-in, often with less generous provisions, different contribution requirements and higher levy rates.

⁸ Moral hazard is when a person or group has an incentive to increase its exposure to risk because it does not bear the full costs of that risk. An example of moral hazard is where people are able to change their behaviour to qualify for an insurance pay out that it was not intended they receive.

IN CONFIDENCE


Options considered to date

64. The Forum's discussion document presented an array of options for the treatment of self-employed workers for public feedback. These options ranged from full exclusion to full inclusion, each with strengths and weaknesses, as briefly set out below:
- **exclude all self-employed workers for economic displacement** - risks exacerbating reclassification, means that self-employed who have similar vulnerabilities to employees miss out on the protections of the scheme
 - **compulsorily include all self-employed workers for economic displacement** - would ensure coverage of misclassified employees, but also cover the genuinely self-employed, and would entail significant complexity and integrity risks, particularly around identifying a verifiable triggering event for eligibility
 - **compulsorily include contractors who depend on a small number of clients for economic displacement** - information not currently collected, would be easy to game, and may not accurately target those self-employed who most resemble employees
 - **offer an opt-in scheme for all self-employed workers for economic displacement** - risks the adverse selection problem, whereby those who can afford it or are more likely in need of insurance opt-in to coverage, while others opt out⁹
 - **cover all self-employed workers for health conditions or disabilities (HCD) only** – more straightforward than covering displacement, since the onset of a health condition provides a clearer, verifiable trigger, but not without complexity as most other scheme settings would still need modification to work for people in self-employment. Would align with ACC.
65. Feedback from public consultation acknowledged the challenges involved in including self-employed. Views were mixed about whether to cover self-employed or not.
66. A further option considered at the June 2022 SUIGG meeting was to exclude self-employed (for displacement and/or HCD) but establish a power that would allow regulations to be made that 'call-in' groups of workers who strongly resemble employees (and where NZII administration is feasible). A call-in function could be limited to either displacement or HCD, or it could include both. The function would be based on occupational groupings, such as particular groups of platform workers.
67. There is precedent for the call-in mechanism, in that it could resemble Part 6A of the Employment Relations Act 2000, which allows groups of vulnerable workers to be included in a schedule of the Act. However, identifying groups to be included in the schedule would be complex, and regulations would need to specify all scheme settings for each group (most notably around the trigger for entry into the scheme and how levies will be calculated and collected, but also all other scheme architecture including contribution history requirements, whether a stand-down period would apply, abatement rules and penalties and enforcement provisions). Considerable work would be needed to call-in a group of workers to the scheme to confirm that (a) they should be covered, and (b) it is feasible to do so.

⁹ The result is a higher cost per person, leading to lower participation and even higher individual costs. This leads to low coverage. Similarly, when the economic climate is uncertain, more workers will opt-in to the scheme compared to more stable economic times. This can lead to higher and more volatile costs to the scheme.

IN CONFIDENCE

68. Legal professional privilege



69. When taking decisions on the introduction of the NZII in July 2022, Cabinet considered that there would be clear benefits to including some self-employed workers in the scheme, particularly self-employed workers who closely resemble employees, but did not settle on a preferred coverage approach. Rather, Cabinet requested that officials undertake further work to consider whether and how self-employed workers could be included in the scheme [CAB-22-MIN-0250.02 refers].

Further considerations and additional choices

70. Extending NZII coverage to workers who resemble employees is desirable because these workers are more likely to be more vulnerable (have low bargaining power, lack financial reserves, be impacted by market shifts) and therefore more susceptible to a displacement type event.
71. Officials have considered whether there are any further identifiable groups of self-employed workers with characteristics compatible with the scheme coverage, and the desirability and feasibility of including them in the NZII scheme.
72. The options canvassed by the Forum to date have focussed on the degree of 'dependency' of self-employed workers (e.g., number of counterparties), but we could also consider 'size' (turnover or number of employees) as a more definitive criterion of vulnerability. We have also looked at where there are existing defined sub-groups of self-employed workers that could form a sensible basis for NZII coverage.
73. Through this work, the following additional coverage options have been identified:
- a) cover self-employed with no, or few, employees for economic displacement
 - b) cover self-employed with turnover/income below a certain level for economic displacement
 - c) cover self-employed on IR's list of schedular payment activities for economic displacement
 - d) cover one or all of these groups for displacement arising from HCD.
74. Across all options (with the exception of option c), the self-employed person would need to pay both the employer and employee components of the relevant levy, as there would not be an identifiable or practicable counterparty in all circumstances with whom to share it. The simplest collection option would be to follow the current ACC process whereby ACC would send an invoice to the self-employed worker once they have filed their tax return.

IN CONFIDENCE

75. Other design elements of the main scheme, such as the contribution history and abatement rules, would also need to be modified for self-employed workers. This is because information about most self-employed workers' earnings is only provided to IR on an annual basis, which means that 'real-time' earnings information (i.e., whether a person has paid the levy in six of the last 18 months) is not available. We propose that the contribution history requirement for self-employed workers would be to have paid the relevant levy in at least the previous complete tax year. The abatement regime would need to operate on a largely high trust model, with workers required to disclose their earnings (while receiving entitlements) to the scheme.
76. Option (a) would provide NZII coverage to self-employed workers with no or few employees for economic displacement. This approach would extend the scheme to a large proportion of self-employed workers¹⁰, thereby reducing misclassification risks and likely capturing the majority of vulnerable self-employed workers. However, whether a person has employees is an extremely blunt sorting mechanism that would also capture significant numbers of less vulnerable, genuinely self-employed workers. Furthermore, although we can access data on how many employees a company has, it is not possible to link this to an individual self-employed person, which would make it challenging to identify who should pay a levy. The size and diversity of the sub-group would also require higher levels of assessment capacity and expertise to determine whether the trigger event was legitimate and ensure integrity risks were managed.
77. Option (b) would cover self-employed with turnover/income before a certain level for displacement. This would capture the most vulnerable self-employed workers and be less blunt than option (a). Income, however, is not always reflective of a business' situation, and boundary issues and inequities (detailed further in paragraph 75 below) would be more pronounced for this grouping. In particular, there would be significant scope for manipulating income levels in order to get in or out of scheme.
78. Option (c) would provide economic displacement coverage for those contractors captured by IR's list of schedular payment activities. Contractors on this schedule have tax deducted from their payments by a principal as they earn. Although this sub-group is attractive in that it is clearly defined, with an identifiable counterparty that would allow for simpler collection and sharing of levies, it would be poorly targeted and as such is not recommended. The schedular list targets groups with irregular income and historically low tax compliance, rather than vulnerability. Furthermore, most companies are exempt from schedular payments, so covering this group would effectively result in an opt-in scheme as contractors could easily set up a company to avoid paying into the scheme.
79. Option (d) is to cover one or all of the aforementioned sub-groups for HCD. As noted in the discussion document, covering self-employed workers for HCD is more straightforward and less gameable than covering economic displacement, due to the relative objectivity of the trigger event. However, it is not without complexity, as most other design elements of the main scheme would need to be modified to work for self-employed workers. Furthermore, the rationale for only targeting coverage at particular groups (rather than all self-employed) is weaker with HCD, given that the incidence of health conditions and disabilities is unlinked to business decision making and the moral hazard risks are largely mitigated.

¹⁰ 340,300 people identified as self-employed (no employees) in the June 2022 Household Labour Force Survey. A further 176,500 identified as employers.

IN CONFIDENCE

80. An overarching concern across all options is the boundary issues that come with attempting to define sub-groups of self-employed workers. A key risk is that workers with similar operations may end up on different sides of a boundary. Boundaries also increase the risk of excluding vulnerable workers and creating opportunities for some self-employed workers to adapt their business to be in or out of these definitions as they please. These factors, and the administrative complexity required to design and administer workable scheme settings for each sub-group, are likely to reduce the overall coherence and integrity of the scheme.
81. Only covering vulnerable sub-groups of self-employed workers will also have implications for the fund's stability and potentially shift the costs of the scheme, given that more vulnerable workers would be expected to make more claims. To date, cost estimates for the scheme have assumed the self-employed are excluded from cover.

Revisiting concerns about opt-in options

82. Opt-in arrangements provide a high degree of choice, allowing people to pick the arrangements that best suit them, but are problematic for social insurance schemes because they worsen adverse selection and moral hazard risks. To avoid these risks, the proposed NZII, and other local (e.g., ACC) and international social insurance schemes, are nearly always compulsory.
83. Adverse selection and moral hazard risks are heightened with self-employed workers, who in general have more control over their affairs than employees, and the ability to arrange them to qualify for insurance.

Alignment with Better Protections for Contractors work

84. Since Cabinet agreed to introduce NZII in July 2022, work has also continued on the Better Protections for Contractors (BP4C) project. The aim of this work is to reduce misclassification of employees as contractors by providing a clearer and more enforceable legislative boundary between employment and contracting relationships.
85. The contractors targeted by BP4C (those who most resemble employees) are also those likely to benefit most from NZII cover, and whose work (other than their contractor status) is most compatible with that covered by the scheme.
86. BP4C should over time result in a clearer employee / contractor boundary. This means that the risk of exacerbating misclassification through introducing income insurance without covering the self-employed is likely to be somewhat reduced.

Comment

87. Covering self-employed remains challenging and could complicate or delay the introduction of the Bill and establishment of the main NZII scheme.
88. The simplest approach would be to exclude the self-employed from NZII initially, to focus on establishing the main scheme for employees. Coverage of self-employment could be reviewed following the go-live of the scheme, when the effects of excluding the self-employed are clearer. Further policy work on self-employment – such as an in-depth review of international models – could also occur once the Bill is passed.

IN CONFIDENCE

89. As advised earlier, the SUIGG could also consider establishing a regulation-making power in the legislation to include some groups of self-employed at a later date (the 'call-in' option). While this would entail considerable complexity (such a regulation would need to define all scheme settings for each designated group), it is an option that could be enabled in legislation, changed through regulation, and modified over time as the scheme matures. However, as noted above, we have been cautioned against this approach by PCO, and given the considerable work involved in confirming whether a group should be covered and the feasibility of doing so, it is not certain at this point whether such a regulation-making power could or would actually be enacted.
90. If the SUIGG desires to ensure at least some coverage for self-employed workers at the outset of the scheme, then the SUIGG could consider covering HCD for *all* self-employed workers. As discussed above, the moral hazard concerns surrounding the trigger event are relatively mitigated with HCD (although there is still some scope for gaming of income earned). Covering all self-employed workers, rather than a particular group or groups within the cohort, would also avoid the boundary issues that come with defining sub-groups, and be significantly simpler administratively. Covering the self-employed for HCD is not without complexity, however, as other design elements of the main scheme, such as levy rate and collection, contribution history and abatement rules, would need to be modified for self-employed workers, and this would add further pressure to developing a Bill and establishing the scheme on schedule. Adding HCD coverage for the self-employed subsequently would be a lower risk approach.
91. Social partners' preference is for the call-in option, in conjunction with HCD coverage for all self-employed, from the outset.
92. Business NZ's overarching concern about HCD coverage (for employees, as well as the self-employed) is that it will place larger than anticipated pressure on the scheme to the possible detriment of displaced workers.

IN CONFIDENCE

C. The role of NZII in responding to economic crises

Background

Cabinet has sought further advice on additional roles for NZII in crisis conditions

94. In agreeing to the detailed design for NZII, Ministers noted their intention for the scheme to have the flexibility to provide additional Crown-funded support during a crisis. This could comprise both variations to the usual eligibility criteria for income insurance to increase support for displaced workers, and the use of the scheme infrastructure to deliver wage subsidies, or similar support.
95. Given that delivering a wage subsidy could require additional capability or capacity, the advice to Cabinet noted that any additional system capability required would be a second-order decision for implementation, rather than as part of the primary capabilities developed to deliver the scheme. Cabinet directed officials to provide further advice by October on proposed legislative settings and the necessary operational capability to enable 'crisis payments' [CAB-22-MIN-0250.02 refers].

Income insurance schemes can provide additional support in crisis conditions

96. Wage subsidies and similar instruments support employers to meet wage costs during severe economic contractions, and thereby avoid redundancies. Effective wage subsidy schemes reduce the severity of recessions, promote rapid economic recovery, and protect employees from unemployment. The Wage Subsidy Scheme administered by MSD is widely credited with effectively sustaining employment through the pandemic.
97. Social income insurance schemes can reduce the need for wage subsidies by ensuring that workers continue to receive a high proportion of their income, even if displaced. The discussion document noted that "Rather than supporting workers to remain attached to their current jobs, as the Government did throughout COVID-19, we need policies that provide economic security to the individual directly and support them to transition into new work..." (p.4). This means that with an income insurance scheme established, there will be less need for wage subsidies in future.
98. Equally, even countries with well-established income insurance schemes deployed wage subsidies, or similar instruments, during the pandemic, and often used their income insurance scheme infrastructure for this purpose. The OECD has recognised the German Kurzarbeit (short work) scheme as a model. Kurzarbeit tops-up the wages of workers who experience reduction in hours, but who remain employed.
99. Recognising this role for insurance schemes, the Forum has proposed that "in defined crisis conditions, governments could use the social insurance administrative capability to deliver a wage subsidy (or similar relief) to keep employees connected to their employers and reduce the risk of becoming displaced. In such cases, the Forum expects that additional costs would be met by the Crown" (p.144). The Forum also recognised that the usual eligibility rules for income insurance could be relaxed to provide greater support to displaced workers – such as lengthening entitlement durations, or waiving contribution requirements.
100. There are potential advantages in using an income insurance scheme to deliver a scheme designed to promote attachment to employment. First, the insurer has strong incentives to ensure the wage subsidy is delivered effectively, since an effective wage subsidy will reduce the flow of people into the actual insurance scheme. Second, to the extent employees are displaced, there would be a more seamless transition to income insurance.

IN CONFIDENCE

Considerations and options

101. Introducing NZII will significantly improve New Zealand's resilience to economic crises. Displaced workers will have the confidence they will receive a high level of financial support following job loss, with direct benefits to them, their families, and the wider economy.
102. Further, the operational systems the ACC is establishing will provide the government with a further set of tools that can be combined with the capabilities (and information sets) maintained by partner agencies to support a crisis response – such as measures to maintain job attachment. The need for cross-agency collaboration has been a consistent theme from recent crisis responses. IR played a key role supporting MSD to deliver the Wage Subsidy Scheme.
103. It is not possible to foresee with any reliability the nature of the next economic crisis, and even less possible to anticipate an appropriate response. Experience suggests that a preferred response can only be decided once the nature of crisis is clear. This means there are risks in building dedicated crisis response functions into NZII. Any dedicated functions may not be suitable to the nature of the crisis, and the preferred response. It is difficult to forecast what crisis management capability could be needed.
104. It would be useful, however, to specify in legislation that Ministers can direct the ACC to use NZII administrative capabilities to support responses to economic crises.
105. Legislative provisions are not essential; the Wage Subsidy Scheme was delivered without an express legislative foundation. Further, legislation can be passed rapidly if necessary. On the other hand, legislative provisions could help provide confidence to employers and working people that governments can use the scheme to support crisis responses.

Comment

106. As Cabinet has noted, legislative provisions could be crafted that grant regulation-making powers to Ministers to direct the ACC to use NZII administrative capabilities to support responses to economic crises. The provisions would make clear that any payments outside the usual eligibility conditions would be a cost to the Crown. The provisions could also note that the scheme would likely be participating in partnership with other agencies in responding to an economic crises.
107. Business NZ is concerned that providing access to the fund for crisis payments early on could jeopardise the scheme's viability. They would be supportive of this option if there is a requirement that the government guarantees replacement of funds used for crisis purposes, as is proposed.

IN CONFIDENCE

D. Further advice from officials on enforcement, offences and penalties

Background

108. NZII will face broadly similar integrity challenges as the accident compensation scheme, such as failures to provide information, provision of misleading information and non-payment of levies. The obligations on employers to inform ACC of redundancies and provide notice periods and bridging payments to employees also require measures to support enforcement.
109. The scheme's proposed design will include several features to prevent abuse, such as measures to discourage unjustified claims (e.g., bridging payments), and information sharing between agencies. New Zealand also has institutional features that can support the scheme's integrity, such as employer obligations to keep accurate records and general criminal provisions that could be applied in cases of serious scheme abuse.
110. Specifically applicable offences with appropriate maximum penalties (i.e., consistent with offences of similar seriousness) are needed to provide clear deterrence against abuses of the scheme for financial gain (which are common internationally) and enable abuses of the scheme to be dealt within in a straight-forward way. The enforcement process will need to deal with ambiguity, genuinely contested views, and sit in the appropriate system with regard to level of expertise and authority.

Discussion document proposal

111. The discussion document proposed that the scheme would take enforcement action where necessary, with means to take appropriate action to collect levy payments, and to deter and respond to misrepresentation. The discussion document provided relatively little detail on offences, penalties, and enforcement.

Considerations and options for enforcement in the Accident Compensation Act 2001 (AC Act)

We consider that existing penalty and offence provisions in the AC Act can be used for NZII

112. Offence and penalty provisions in the AC Act are well suited to NZII and should be applied to the scheme. These provisions include:
 - a. S.249 Penalties due to Corporation in respect of overpayments
 - b. s. 250 -Penalties and interest due to Corporation in respect of unpaid levies
 - c. s. 254 Limitation Period
 - d. s268 - Protection of names "Accident Compensation Corporation" and "Accident Rehabilitation and Compensation Insurance Corporation"
 - e. s.308 - Offence to mislead Corporation
 - f. s.309 - Offence not to provide requested information to Corporation
 - g. s. 310 - Offence not to provide earnings information to Corporation
 - h. s 313 – Charges (the limitation period ends on the date that is 5 years after the termination of the year in which the offence was committed)
 - i. s.315 General fine for offences
 - j. s.316 Offences in relation to deductions.

IN CONFIDENCE

We recommend that the penalty for s.309 of the AC Act is updated to suit both schemes

113. While the offence provisions in the AC Act are well-suited to NZII, one of the penalties is not appropriate. We propose that the s.309 of the AC Act is updated to increase the maximum fine. The existing penalty is too light for the seriousness of the offence,¹¹ and the maximum fine penalties have declined in relative terms as a result of inflation over 25 years.
114. Non-provision of information to support another person's claim could result in obstruction of entitlement, with serious impacts for affected people. We propose a maximum fine of \$5000. The increased fine reflects the seriousness of the offence.

Identification of non-compliance and enforcement of employer obligations related to the scheme

There are additional considerations needed regarding enforcement of scheme notification, notice period, and bridging payment employer obligations

115. Once the scheme is established, employers will need to provide a notice period and bridging payment to their displaced employees and notify the scheme of any redundancies. These are new employer obligations for which there are no existing offences, penalties or enforcement mechanisms.
116. Enforcement of these obligations is key to meeting the objectives of the scheme. If employers fail to notify the scheme and/or provide employees with notice periods and bridging payments, employees will be less able to maintain living standards post displacement. These obligations also give the scheme administrator sufficient time to process upcoming claims without imposing significant costs on the scheme.
117. The bridging payment aims to disincentivise employers reclassifying terminations as redundancies and avoid them being less restrained with ending employment relationships. Employers must believe there is risk for failing to meet this obligation, or they could be motivated to avoid proper dismissal processes - harming workers and undercutting other employers. This will require effective enforcement.
118. Ministers are considering further whether negotiated redundancy payments can meet employers' bridging payment obligations, and whether bridging should be payable to all workers made redundant irrespective of their eligibility for NZII.
119. If the bridging payment is to apply to all workers made redundant, including those not eligible for NZII payments, it could potentially constitute a new minimum employment standard, forming part of the employment relationship. As such, the Employment Relations and Employment Standards (ERES) system would enforce the obligation. If the bridging payment was only payable to NZII claimants, the ERES system could still have an enforcement role, but it would make the role more difficult as they would need to first determine whether someone was eligible for NZII.

¹¹ The current penalty is liability for a fine up to \$2000.

IN CONFIDENCE

Determining whether an employer has failed to meet their obligations

120. We anticipate that in permanent employment situations, redundancy is most likely to arise from a restructuring situation. Most employers will comply with their requirements in relation to employees' notice periods and bridging payments.
121. Cabinet has agreed that in the case where an employer cannot pay the bridging payment due to insolvency, the scheme will pay with ACC recovering the debt. The scheme would only pay the bridging payment when it receives notification of a redundancy.
122. There could be other situations where the scheme does not receive notification of a redundancy and the employer does not pay a bridging payment. In these situations, it would be assumed there is a dispute and it would need to be resolved within the Employment Relations and Employment Standards (ERES) system before a determination of eligibility for the bridging payment or NZII payments could be made.
123. In the case where an employee takes their dispute through the ERES system and it is determined that they were eligible for the scheme, we consider that the employer would be required to pay the employee the bridging payment they were owed, and that the employee would be able to access the scheme if they had found resolution within the scheme time limitations. If the timeframe of eligibility for the scheme had lapsed, decisions would need to be made about what could be expected to happen.
124. The current operating environment means there are long waits for determinations, which creates uncertainty for both parties about the outcome for duration of determination. The wait times would also prolong the gap between displacement and claimants receiving NZII entitlements, undermining the purpose of the scheme. Depending on their circumstances some may be able to access support through the welfare system.
125. It could also some perverse incentives for employers to end the relationship for other reasons, such as misconduct or performance but we consider the risk of reclassification is low given the risk for employers regarding unjustified dismissals.
126. These disputes will be more complicated where there is fundamental dispute about the nature of employment relationship.
127. We are continuing to work through the intersection between compliance, determining eligibility and entitlements, and enforcement.

IN CONFIDENCE

E. Further advice from officials on information sharing

Background

128. Cabinet sought further advice on information sharing arrangements for NZII [CAB-22-MIN-0250.02 refers].
129. Scheme operation requires personal information for:
 - a. establishing funding requirements, and administering correct levies,
 - b. verifying eligibility and providing full and correct entitlements,
 - c. maintaining scheme integrity.
130. Personal information generated by ACC as part of administering the scheme will also be important for supporting other government agencies to:
 - a. provide full and correct benefits, transfers and services, and avoid people accumulating government debt,
 - b. administer other regulatory systems with correct, up to date information.
131. The Privacy Act 2020 holds that information should only be used for the purpose for which it is collected, and only shared and used for another purpose where an express legal authorisation is provided.
132. ACC will be able to obtain some personal information directly from claimants through the NZII claims process or through their employer with the claimant's consent.
133. However, some information is not feasible to collect, or would be inefficient and/or inaccurate for ACC to collect (e.g., details of employment history for determining eligibility and entitlements) and is already collected from businesses and individuals by other agencies. Duplicating the collection of information already collected by agencies would result in additional administrative costs, compliance costs for businesses and individuals, and scheme integrity risks (due to an inability to verify the accuracy of information).
134. Placing additional information requirements would also create barriers for some people in accessing the scheme. In other cases, such requirements could mean that entitlements people receive from different agencies are not adjusted in a timely manner resulting in people becoming unnecessarily indebted to government (disproportionately affecting disadvantaged groups including Māori and Pacific peoples).
135. Information relevant to NZIIS is already shared with ACC for the purpose of administering the AC scheme and ACC is authorised to share information with other agencies for several specified regulatory functions.
136. It is therefore proposed that legal authority be established for ACC to obtain and use information for NZIS and share NZII information with other government agencies to support their service delivery.

Considerations and options

137. Legal authorisation for sharing can be provided under a specific provision in legislation or via Approved Information Sharing Agreements (AISA) under part 7 of the Privacy Act 2020.

IN CONFIDENCE

138. In accord with the Government's Better 4 Business commitment to lightening the load on businesses, and its commitment to ensure people have easy access to Public Services, which are designed around them, when they need them, we propose to establish scheme administration that minimises compliance costs on all parties, while maintaining privacy/integrity. It will be most efficient to draw on information already collected, and share it, rather than duplicate information collection.
139. To be fit for purpose, legal provision for information sharing should:
- a. be necessary for, and limited to, arrangements required to achieve the scheme's purpose and Government objectives,
 - b. be efficient for ACC and partner agencies to implement – unless there is a compelling reason, the provisions should be consistent for the two schemes,
 - c. minimise compliance costs for businesses and workers,
 - d. be feasibly implemented within the timeframe,
 - e. be flexible to support continuous improvement of services,
 - f. minimise risks of privacy breaches, and information misuse.

Discussion Document proposal

140. The discussion document proposed that authority for information collection and sharing would be provided under the authorising legislation for the scheme. This would provide greatest certainty for scheme operationalisation, and clarity to Parliament of what information is expected to be shared.

Preferred option

141. Authorising legislation, enabling information collection and sharing remains the preferred approach. However, MBIE, ACC, and IR have identified enhancements to the consultation option, namely to:
- a. enable ACC's information sharing agreements with agencies to be consolidated across the AC and NZII schemes, so that accountability and technical provisioning can be simplified,
 - b. establish mutual sharing between ACC, IR and MSD for instance to ensure people receive full and correct entitlements and avoid accumulation of government debt, and support scheme functionality to be administered across agencies as is most efficient.
142. We consider it appropriate to take this opportunity to modernise the provisions that relate to the AC Scheme to align with the modern approach that will be designed for NZII (given the NZII Bill is an omnibus Bill). If this is not done now, the two schemes will be out of step and could potentially cause administrative complexity and burden for common users of the two schemes (including levy payers).
143. **Annex Five** provides more detail on the proposed scope and purposes of proposed information sharing arrangements between agencies.

IN CONFIDENCE

144. Risks associated with this option include poor information management or misuse on the part of one or the other agencies. We propose that these risks be managed by imposing obligations on the Chief Executives of the agencies requesting and providing information to be satisfied of the necessity of information sharing (a necessity test), and instituting transparency requirements (e.g, publication of information sharing agreements and the type of information to be shared, breaches and mitigations).
145. It is, therefore, proposed that the legislated information sharing provisions would be subject to the following safeguards:
 - a. agency agreements could only be entered into between ACC and an agency named, for information within the scope of an information category, in the legislation,
 - b. ACC must have a reasonable belief that the information to be shared under an agreement is necessary for ACC to carry out an NZII (or AC scheme) function and that the authorised purpose could not be met by using non-personal information (the necessity test).
146. We expect operational requirements and agency information requirements will change over time and it is proposed that provisions be included in the legislation to allow for some flexibility. Where information sharing requirements need to change in material ways, it is proposed that the legislation provide an ability to alter the scope of agencies and information categories, subject to Order in Council. There will also be other cases where more minor changes in scope or clarification of scope will be required. To provide flexibility in such circumstances it is proposed that ACC would also be able to request a specified government agency to provide information that is not within one of the categories described in the legislated schedule subject to consultation with the Privacy Commissioner; and that the necessity test is met.

Alternative options

147. A second option considered was to simply replicate the existing legislative provisions for the AC scheme to NZII. This would enable NZII to operate, but according to a two-decade old administrative model, and would foreclose on the administrative improvements identified. It also would not address information sharing between NZII and ACC. A variant on this option would provide for information sharing to enable NZII and IR to adopt enhancements but not carry those through to the AC scheme. However, the variation between the schemes would create complexity and additional costs for IR and ACC.
148. A third option considered but not preferred is to develop and consult on an AISA between ACC and other agencies. The AISA approach is the established mechanism for sharing personal information between agencies and incorporates standard safeguards on the use of personal information. This agreement could potentially achieve some but not all of the outcomes that can be achieved through a legislative approach. There may be instances where ACC needs to access or share solely non-personal (employer) information and an AISA developed under the Privacy Act would not be an appropriate mechanism.

IN CONFIDENCE

149. Moreover, the process for developing an AISA is likely to extend the timeframe for establishing necessary legal provisions for information sharing required for the scheme. One or more AISAs would need to be developed for consultation following passage of legislation and could take a year or more to establish. According to this timing, an agreement could be established by mid to late-2024. This timing could work for a 2025 scheme go live (to be decided) but would introduce considerable cost and additional delivery risk which would not be justified given the opportunity to embed arrangements within legislation.
150. Another option would be to not include a provision to adapt the legislated scope for information sharing, and instead rely on AISAs to pick up changes in information sharing requirements over time. While AISAs are not a preferred approach at the outset, the legislation could incorporate provision for legislated information sharing provisions to be built upon by AISAs as an alternative approach to altering the legislative scope. This approach would, however, suffer from the same limitations noted in relation to option 3. It would not provide an appropriate vehicle for enabling access to solely non-personal (employer) information.

Comment

151. We propose that the NZII Bill enable ACC to obtain and use information for NZII and share NZII information with other Government agencies to support service delivery. The legislation should:
 - a. enable ACC's information sharing agreements with agencies to be consolidated across the AC and NZII schemes, so that accountability and technical provisioning can be simplified; and,
 - b. establish mutual information sharing between ACC, IR and MSD for instance to ensure people receive full and correct entitlements and avoid accumulation of government debt, and support scheme functionality to be administered across agencies as is most efficient.
152. The key advantages of this proposal are that it would efficiently enable ACC and other agencies to apply a single agreement and set of protections across the two schemes. It can also be feasibly implemented to support the wider scheme implementation timeframe, and would include additional safeguards compared to current arrangements between ACC and other agencies.
153. The Office of the Privacy Commissioner has not yet provided formal feedback on the proposal but has indicated it will be most interested in seeing that claimants will have control of their personal information, and that any collection and sharing requirements are of proportionate benefit insofar as they trade off individual rights to privacy. The Office has also expressed an initial preference for an AISA over legislation but acknowledge the timeframe considerations involved. Officials are working closely with the Office to ensure proposed sharing arrangements are proportionate, and appropriately mitigate risks.

IN CONFIDENCE

F. Update on approach to covering non-standard workers

Background

154. Income insurance schemes can struggle to effectively cover non-standard working arrangements, such as fixed-term, seasonal and casual working arrangements. But it is desirable to include this group as far as practical, as covering non-standard workers extends the benefits of insurance to a wider portion of the labour force, including more vulnerable workers. It also avoids the distortions that can arise when some groups are exempt from levies.
155. For these reasons, Cabinet agreed to include non-standard employment arrangements in the NZII but determined that these workers would be covered using a principles-based approach. Namely, that income insurance would cover the loss of income from reasonably anticipated work and entitlements would be based on a person's established pattern of work [CAB-22-MIN-0250.02 refers].
156. Cabinet noted that further work would be done to specify what is meant by these principles, and how to apply them for casual workers.

Considerations and proposed approach

157. As set out in the discussion document, a defining feature of true casual workers is that they do not have a regular pattern of work or expectation of future work with an employer. If there is an expectation of future work, then the true nature of the employment relationship may be something else, e.g. part-time, permanent employment, or fixed-term employment, rather than 'casual'.
158. Although Cabinet determined that it would be desirable to cover this cohort of workers because of their similarities to part-time permanent employees, this coverage does carry a risk that a finding of an expectation of future work for the purposes of NZII could flow through to the employment regulatory space, with potential unintended consequences.
159. A key consideration therefore is to ensure via legislative drafting that these concepts align with existing employment law practices. We also need to balance the desirability of having clear eligibility rules and thresholds, with the fact that anything forward looking (such as determining an expectation of future work) is fundamentally discretionary.
160. Since it is difficult to identify a clear "bright line test" for expectation of future income, primary legislation could set out a short list of verifiable factors (based on existing employment case law) that must be considered when determining whether a person had a reasonable expectation of future work with an employer.
161. This provision is still in development, but considerations will likely include:
 - a. whether the employer has given the employee an express commitment of future work (does not include a commitment that is expressed to be dependent on work being available or an event occurring)
 - b. the duration worked for the employer,
 - c. any evidence provided by the employer or employee of a regular and consistent pattern of work with the employer.
162. Regulations could also specify circumstances (safe harbours) under which a person would automatically be deemed to have met the 'reasonable expectation of future work' standard.

IN CONFIDENCE

163. The discussion document envisaged the proposed test of reasonable expectation of future work as being independent of the employment relationship, enabling ACC to determine NZII eligibility, while preserving determinations about the nature of the underlying employment relationship for the ERES.
164. While empowering ACC to make these judgements could enable timely resolution and access to insurance, this could also duplicate and complicate existing employment resolution mechanisms.
165. Another consideration is that NZII case law, and any safe harbours specified in regulation, will become new 'bright lines' with the potential to drive employer behaviour (e.g. so as to avoid giving an employee an expectation of future work, and therefore avoiding liability for bridging payments).
166. Officials are working via legislative drafting processes to ensure alignment with the ERES and to ensure proposed settings can be practically implemented. Further decisions from the SUIGG are not sought at this time, while officials continue to work through the details of the proposal.

IN CONFIDENCE

G. Coverage and eligibility for bridging payments

167. Ministers are considering further whether negotiated redundancy payments can meet employers' bridging payment obligations, and whether bridging should be payable to people not eligible for income insurance. Key considerations relating to these two items are briefly set out below.

Bridging payments for people with negotiated redundancy payments

168. Bridging payments seek to deter spurious redundancies (and hence reduce scheme costs), by imposing a cost on employers at the point of displacement.
169. In instances where redundancy entitlements that meet or exceed the bridging payment are already provided in employment agreements, bridging payments are not necessary to achieve the policy objective of deterring unnecessary redundancies. However, allowing negotiated payments to meet bridging would disadvantage those who have made wage sacrifices through bargaining.
170. The discussion document proposed that bridging would be payable in addition to any contractually negotiated redundancy compensation, given that existing contractual provisions may reflect an express or implicit wage sacrifice. This means an employer would pay the contractual entitlement and a four-week bridging payment to their employee if making them redundant.
171. Allowing employers with existing negotiated redundancy agreements to avoid bridging would reduce their costs. Although some employees who have traded-off wages or other benefits for redundancy provisions may feel that they do not gain anything additional in the event of a redundancy event, they will still receive any redundancy entitlement over and above the level of the bridging payment as well as their income insurance entitlement.
172. Ultimately this is a transitional issue. Collective agreements will be renegotiated, with the bridging payment serving as a new minimum floor, with parties free to negotiate around this.
173. The social partners recommend that bridging payments be additional to negotiated agreements.

Bridging payment for people not eligible for NZII

174. Bridging payments are not necessary to manage scheme costs where people are not eligible for income insurance.
175. The risk, however, is that limiting bridging payments to those eligible for income insurance would make others more attractive to hire, and to displace. This would mainly affect temporary migrants who have not worked for the previous two years in New Zealand, and citizens and residents who have not yet met the six-month contribution requirement.
176. Paying a bridging payment to displaced employees who are not eligible for income insurance would also give this group some protection from spurious redundancies and ensure people with no income insurance entitlement at least receive a bridging payment.
177. For these reasons, the discussion document proposed that the bridging payment would be paid to any employee when made redundant, not just those employees eligible for income insurance.

IN CONFIDENCE

178. Providing bridging to all displaced workers would effectively create a new minimum employment standard.

Next steps

179. Given the limited time available to produce the NZII Bill, there is value in obtaining direction soon on the issues discussed in this paper, most critically the replacement rate, levy structure, and coverage of self-employment. Maintaining a relatively simple scheme, at least initially, will support the goal of producing a complete NZII Bill by November, and introducing it to the House in December.

Annexes

Annex One: Levy relief – effects of replacement rate options, and potential welfare offset

Annex Two: Levy relief – options on whether to ‘square-up’

Annex Three: Levy relief – levy paid at various income levels and household impacts

Annex Four: Detailed rationale and advice on levy relief funded through increasing the levy burden for high income earners or employers

Annex Five: Information sharing

Annex One: Effects of the replacement rate options, and potential welfare offset

Replacement Rate Options

The table below illustrates the gross weekly replacement rate of the different options, based on annual income. The income-based replacement column also includes the effective replacement rate:

Pre-displacement income	80% replacement	70% replacement	60% replacement	Income-based replacement %
\$40,000	\$615.38	\$538.46	\$461.54	\$615.38 (80%)
\$80,000	\$1,230.77	\$1,076.92	\$923.08	\$1,052.58 (68%)
\$120,000	\$1,846.15	\$1,615.38	\$1,384.62	\$1,360.28 (59%)

Welfare Offset

Below are four example families to illustrate the impact of the reduced replacement rate for low-income families. This tests 'income continuity' by comparing total family income pre- and post-displacement, for both welfare and NZII. Example families are eligible for and receiving all forms of income support, including the cash-asset tested assistance.

Example Family	Existing welfare system	80% replacement	70% replacement	60% replacement
1 - Single person, wage rate of \$22 per hour, 40 hours per week, living in Auckland paying rent of \$380 a week. Loses employment.	70% \$248.13 drop	90.2% \$81.11 drop	82.4% \$145.27 drop	81.1% \$156.27 drop
2 - Dual income couple with two children, both earning \$22 per hour, the principal earner works full time and the other part-time, living in Auckland and paying rent of \$550. The principal earner loses employment.	85.4% \$212.74 drop	93.1% \$100.49 drop	91.2% \$127.33 drop	87.3% \$183.91 drop
3 - Sole parent with two children, earning \$22 per hour, 20 hours per week. Living in Auckland paying \$498 per week in rent. Loses employment.	79.9% \$241.39 drop	95% \$60.20 drop	94.5% \$65.70 drop	94.1% \$71.20 drop

Annex Two: Options on whether to ‘square-up’

With progressive levy options, there are likely to be overpayments (overs) and underpayments (unders) as levy-payers move between thresholds (much the same as when they move between tax bands). A square-up is likely to be the only means of ensuring that low-income workers are the ones who benefit from the lower or no levy rates, as well as ensuring that those above the threshold are levied accordingly.

Currently, a square-up occurs for ACC levies to ensure that levy payers do not pay levies on income above their maximum leviable earnings. It is envisaged this will also be done for NZII payments to ensure the cap works as intended. This is done in the annual tax process and can only result in refunds of overpaid levy.

Option One – don’t square-up

There is an option not to square-up and accept there will be overs and unders within any given year. This is the simplest option and has the least impact from an administrative viewpoint. It is also beneficial for levy-payers, as they will not have an end of the year levy debt. However, it may result in levy-payers who shift between the threshold during the year paying more or less than they should. We would recommend this for the single threshold levy options (i.e., those funded by a reduced replacement rate).

Option Two – square-up

Under this option, a square-up will be undertaken as part of the employee’s tax square-up at the end of each year. We would only recommend this option if Ministers decided to go with a more complex progressive levy option. This will be the most accurate method to ensure that levy payers are correctly levied depending on their level of taxable income. The downside is that it will potentially leave levy payers with an extra amount of levy to pay. This is acceptable where the person is on a higher income level but for those on lower levels this could introduce a debt which will need to be settled by the person or otherwise dealt with. Given this, we recommend a square-up where there are multiple thresholds and rates.

Annex Three: Levy paid at various income levels and household impacts

Levy paid at various income levels

Pre-displacement (annual) gross income	Flat rate 1.39% (weekly)	1. 0.77% under \$48k	2. LFT under \$14k, 1.28% above	3. Flat rate 0.92%	4. LFT under 23,000, higher levy above	5. LFT under \$32,864, higher levy above	6. Multi-rates/thresholds levy	7. NZCTU's proposed levy
\$20,000	\$5.33	\$2.96	\$1.48	\$3.54	\$0.00	\$0.00	\$2.69	\$2.69
\$40,000	\$10.65	\$5.92	\$6.40	\$7.08	\$6.87	\$3.43	\$5.38	\$5.38
\$44,096 (f/t minimum wage)	\$11.74	\$6.53	\$7.41	\$7.80	\$8.52	\$5.40	\$5.94	\$7.39
\$80,000	\$21.31	\$15.63	\$16.25	\$14.15	\$23.02	\$22.66	\$17.56	\$21.31
\$120,000	\$31.96	\$26.28	\$26.09	\$21.23	\$39.17	\$41.89	\$42.02	\$31.96
\$240,000 (above max levy cap)	\$36.37	\$30.69	\$30.16	\$24.16	\$45.85	\$49.85	\$86.79 (no max levy cap)	\$36.37

Impacts on households by equivalised disposable income decile

Note: These numbers are based on equivalised disposable income, which adjusts household income by household size and composition to allow comparisons between different households. The first column shows the amount of levy paid by each income decile for the 1.39% flat rate. The following columns show the winners and losers compared to the 1.39% flat-rate.

	Flat rate: 1.39%		1. Lower levy rate 0.77% under \$48,000				4. Levy free under \$14,000, 1.28% above				5. Flat Rate: 0.92%				6. Multi-rate/threshold progressive levy				7. NZCTU's proposed levy			
	Cost of the levy		Levy relief	\$	Higher levy	\$	Levy relief	\$	Higher levy	\$	Levy relief	\$	Higher levy	\$	Levy relief	\$	Higher levy	\$	Levy relief	\$	Higher levy	\$
1	58k	\$6	58k	\$3	-	59k	\$4	-	56k	\$2	-	-	57k	\$3	-	57k	\$2	-				
2	67k	\$10	67k	\$4	-	68k	\$4	-	66k	\$3	-	-	67k	\$4	-	60k	\$3	-				
3	116k	\$14	115k	\$5	-	115k	\$6	-	115k	\$4	-	-	112k	\$5	3k	97k	\$3	-				
4	149k	\$19	149k	\$6	-	149k	\$7	-	149k	\$6	-	-	142k	\$6	7k	126k	\$3	-				
5	163k	\$24	163k	\$8	-	163k	\$8	-	162k	\$8	-	-	149k	\$7	14k	115k	\$4	-				
6	169k	\$29	169k	\$9	-	169k	\$9	-	169k	\$9	-	-	150k	\$7	19k	117k	\$4	-				
7	171k	\$34	172k	\$10	-	172k	\$9	-	172k	\$11	-	-	149k	\$8	23k	109k	\$3	-				
8	173k	\$41	171k	\$11	-	171k	\$10	-	171k	\$13	-	-	130k	\$8	40k	97k	\$3	-				
9	169k	\$44	168k	\$10	-	168k	\$10	-	168k	\$14	-	-	98k	\$6	70k	70k	\$3	-				
10	157k	\$44	156k	\$9	-	156k	\$10	-	155k	\$14	-	-	56k	\$5	100k	62k	\$3	-				
ALL	1,392k	\$30	1,388k	\$8	-	1,392k	\$8	-	1,384k	\$10	-	-	1,109k	\$6	277k	910k	\$3	-				

Annex Four: Detailed rationale and advice on levy relief funded through increasing the levy burden for high income earners or employers

A progressive levy funded by increasing the levy burden for high income earners

Providing levy relief through increasing the levy impost on higher income earners could be achieved through a levy structure where the employee levy rises progressively with income, akin to how personal income tax is collected.

To provide Ministers with a high-level idea of what the structure could look like, we have produced an illustrative example which includes three levy rates:

- \$0 - 48,000: 0.7%
- \$48,001 - 70,000: 1.6%
- \$70,000 +: 2.25%.

The illustrative progressive levy is only levied on those who would benefit from the scheme, but removes the maximum leviable income cap. The levy paid increases with income and is based on the principle of a person's ability to pay. A progressive structure of this nature shifts the scheme's funding principles away from that of a levy to that of general taxation, particularly as income that is not insured (as it is above the maximum payment cap) is levied.

This would lead to the following levy impost with the effective levy rate in brackets, with all workers earning below \$100,000 receiving levy relief:

Pre-displacement (annual) gross income	Flat rate 1.39%	Progressive levy (weekly)	Change in weekly levy
\$40,000	\$10.65	\$5.38 (0.7%)	-\$5.27
\$44,096 (full time minimum wage worker)	\$11.74	\$5.94 (0.7%)	-\$5.81
\$80,000	\$21.31	\$17.56 (1.14%)	-\$3.75
\$120,000	\$31.96	\$34.87 (1.51%)	\$2.90
\$240,000	\$36.37	\$86.79 (1.88%)	\$50.42

As this option is not combined with cost savings from a reduced replacement rate, there are both winners and losers from the proposal. Approximately 1.11 million households receiving average levy relief of \$6 per week, with around 277,000 households paying an average of \$26 more in levies. However, the levy relief is not well targeted. Approximately 56,000 households in the top income decile receive an average of \$5 of levy relief, whilst approximately 24,000 households in the bottom half of the income distribution pay an additional \$2-4 per week. This indicates that option six is poorly targeted, as many high-income households benefit, and some low-income households pay more levies than with a flat-rate levy.

Such a progressive levy would significantly increase administrative complexity and compliance costs

A progressive structure of varying rates also exacerbates the administration and compliance costs outlined in previous options. The more complex the levy structure being applied, the more costly it will be for businesses at a systems level, and the greater chance of genuine error in the levies deducted by employers.

A progressive levy could be funded through increasing the employer levy rate

The New Zealand Council of Trade Unions has proposed increasing the employer levy rate to fund a variation of a progressive levy.

The original intent of the levy was that it would be split evenly between employers and employees, with both paying 1.39%. Cabinet agreed that employers can claim a deduction for the cost of the levy, and GST registered employers can claim back GST paid on the levy. Employees are not able to deduct the NZII levy or claim GST back. This treatment is consistent with overall framework for the tax system and the treatment of the ACC levy.

These settings mean that employers pay a lower effective levy rate than employees. Employers who deduct GST and tax deduction pay the following rates:

	Employer levy (excluding GST)	Employer levy (GST excluded) less tax deduction
Effective levy rate	1.21%	0.97%

Identifying the effective rate is not straight forward. For example, not all employers are GST registered, so cannot claim GST back. Further, these figures do not include the costs of making bridging payments. On average, bridging payments are expected to cost approximately \$380 million annually, which would increase the effective levy rate to 1.25% (assuming both tax and GST deduction rules remain). The bridging payment will be unevenly spread across employers, so the effective rate would be dependent on the number of redundancies (and therefore bridging payments paid) by individual employers.

To fund levy relief, NZCTU propose that the employer levy be 1.39% plus GST, rather than including GST. This would increase the nominal levy for employers to 1.60%. Businesses who are not GST registered would pay a higher effective rate than 1.39%.

NZCTU's preferred levy relief is a variation of the progressive levy:

Income band (\$)	Employee levy
\$0 - 40,000	0.7%
\$40,001 - 60,000	Effective rate increasing from 0.7% to 1.39% over this income band
\$60,001 – 136,544	1.39%

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The key difference with this option is the higher levy rate on income between \$40,000-60,000. Whilst the nominal rate is higher, the effective rate is much lower; people on \$40,000 would pay an effective rate of 0.7%, whilst those earning \$60,000 pay an effective rate of 1.39%. This ensures that those earning above \$60,000 do not receive any levy relief, so they pay the same amount of levy as they would have under a flat-rate 1.39% levy. This reduces the overall cost of levy relief and ensures the additional costs are fully offset by the increased employer levy rate. This would lead to the following weekly levy impost:

Pre-displacement (annual) gross income	Flat rate 1.39%	Progressive levy	Change in weekly levy
\$40,000	\$10.69	\$5.38	-\$5.27
\$80,000	\$21.38	\$21.38	\$0.00
\$120,000	\$31.96	\$31.96	\$0.00

The levy funded by employers provides significant levy relief to those earning under \$40,000 (less than the full-time minimum wage annual wage). On a household basis, this provides around half the levy relief for low-income households compared to the other options canvassed.

This option also maintains the maximum leviable cap. It would also mean that, overall, employers pay more in levies than employees.

As with the above option, a progressive structure of varying rates also exacerbates the administration and compliance costs outlined in previous options. This option also shifts away from existing income tax thresholds, adding significantly more complexity to the proposal.

If Ministers requested further advice on this progressive levy variation, further advice would consider aligning the thresholds with income tax thresholds and the impact on work incentives (particularly for those receiving abated welfare or Working for Families entitlements).

Annex Five – Information sharing

It is proposed that the legislation authorise information sharing for the purposes of:

- a. administering an accurate and equitable levy system (ACC and IR)
- b. verifying/validating identity (DIA)
- c. verifying/validating claims eligibility (IR, Corrections, MBIE Immigration, Customs)
- d. validating medical certification (Health NZ)
- e. accurately assessing and pay claimant entitlements (IR)
- f. managing entitlements through the course of a claim (IR, DIA for notification of death).

It is proposed that legislation authorise ACC to share NZII information with government agencies to:

- a. support correct and full tax administration and government benefits (MSD, IR, Veterans' Affairs)
- b. co-ordination of labour market or health initiatives with other relevant agencies (MSD, TPK, Health NZ)
- c. maintain up to date tax records for levy setting, and avoid people accumulating Government debt (IR, MSD)
- d. scheme monitoring and labour market statistics (MBIE, Statistics NZ).