



BRIEFING

New Zealand Income Insurance – early draft Cabinet paper for review

Date:	16 September 2022	Priority:	Medium
Security classification:	In Confidence	Tracking number:	2223-1039

Action sought	Action sought	Deadline
Hon Grant Robertson Minister of Finance	Agree to review and consult with your Ministerial colleagues on the draft Cabinet paper seeking decisions on outstanding policy questions.	21 September 2022
Hon Carmel Sepuloni Minister for Social Development and Employment Minister for ACC		

Contact for telephone discussion (if required)			
Name	Position	Telephone	1st contact
Amy Hamerton	Acting Manager, Income Insurance Policy	Privacy of natural persons	✓
Jivan Grewal	General Manager, Employment, Skills and Immigration Policy		

The following departments/agencies have been consulted on the Cabinet paper
Parliamentary Counsel Office

- Minister's office to complete:
- | | | |
|--|---|------------------------------------|
| <input type="checkbox"/> Noted | <input type="checkbox"/> Approved | <input type="checkbox"/> Declined |
| <input type="checkbox"/> Overtaken by Events | <input type="checkbox"/> Needs change | <input type="checkbox"/> Seen |
| | <input type="checkbox"/> See Minister's Notes | <input type="checkbox"/> Withdrawn |

Comment



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Purpose

This briefing provides an early draft Cabinet paper for your review, as requested, entitled:

- *New Zealand Income Insurance: decisions on outstanding policy questions* – to be considered by Cabinet on 17 October 2022.

Recommended action

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

1. **Agree** to review an early draft of the Cabinet paper ‘*New Zealand Income Insurance: decisions on outstanding policy questions*’ by 21 September.

Agree / Disagree

2. **Note** that the early draft Cabinet paper has not yet been consulted with agencies or undergone a full quality assurance process.

Noted

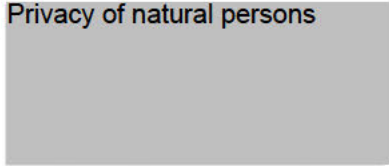
3. **Note** that to meet your preferred timelines for introduction of the Bill, the Cabinet paper will need to be lodged by 10am on Thursday 13 October for consideration by Cabinet on 17 October.

Noted

4. **Discuss** the advice in this paper with officials at the next officials meeting on 20 September.

Agree / Disagree

Privacy of natural persons



Amy Hamerton
Acting Manager, Income Insurance Policy
Labour, Science and Enterprise, MBIE

..... / /

Hon Grant Robertson

Minister of Finance

..... / /

Hon Carmel Sepuloni

Minister for Social Development and Employment

Minister for ACC

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Background

1. On 4 July 2022 Cabinet agreed to proceed with New Zealand Income Insurance (NZII) and made decisions on the detailed design of the scheme.
2. Cabinet invited Ministers with delegated authority to report back to Cabinet on a set of outstanding policy questions by October 2022. Key questions requiring Cabinet decisions are:
 - the scheme's income replacement rate and levy structure,
 - coverage of self-employment, and
 - bridging payments: eligibility and interaction between bridging and contractual redundancy payments.
3. Final Cabinet decisions are needed on these issues to inform legislative drafting.
4. You provided direction on your preferred policy settings at a meeting with officials on Monday 12 September 2022. The preferred policy settings have been reflected in the early draft Cabinet paper attached

Further advice on coverage of self-employed workers

5. On 12 September, you indicated that their preferred option is to exclude self-employed workers from NZII initially, but to establish a regulation-making power to provide the ability to 'call-in' groups of vulnerable self-employed workers that resemble employees.

Legal professional privilege

6. Legal professional privilege

[Redacted text block containing multiple paragraphs of information, all obscured by grey bars.]

7. Confidential advice to Government [redacted]

8. Confidential advice to Government [redacted]

9. Confidential advice to Government [redacted]

An alternative would be to review coverage of self-employed workers following go-live of the scheme

10. An alternative to the call-in function, whilst still mitigating the risk of employees being reclassified to avoid levies, would be to signal the government’s strong intention of bringing self-employed workers into the scheme once the main scheme for employees has been established. Communications at the scheme’s announcement could convey that coverage of self-employment in some form will 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.

Further modelling on levies

11. While the modelling that underpins the 2.77% levy rate remains valid, for reasons of due diligence Ministers have asked officials to revisit the modelling and to provide any more insight on the impact of behavioural and other assumptions.

12. A working group drawn from ACC, the Treasury and MBIE is conducting sensitivity analysis, modelling alternative assumptions around claims incidence and duration and bad debt, to assess their implications for the levy rate. Using the range of levy rates calculated from the sensitivity analysis the working group will also consider the implications of any variations between forecast and actual scheme experience over time on future levy rates and the Crown’s liability as lender of last resort.

13. The results of this analysis – which we anticipate being completed by 23 September - will be reflected in a later draft of the Cabinet paper.

Implications of a revised decision on bridging eligibility

14. On 12 September, Ministers Robertson and Sepuloni expressed a preference that employers only be required to provide a four-week bridging payment when making an employee's position redundant if the employee is eligible for the scheme.
15. This decision would require Cabinet to rescind its decision from 4 July 2022 that employers be required to provide a four-week bridging payment when making an employee's position redundant, whether or not they are eligible for income insurance [CAB-22-MIN-0250.02 paragraph 34 refers].

Limiting bridging eligibility would impact about 12 percent of the population

16. The proposal that the bridging payment should only apply to those employees who are eligible for the scheme has implications for:
 - temporary visa holders who have not been continuously resident in New Zealand for at least two years at the time of trigger event, and
 - New Zealand citizens and residents who do not meet the six-month contribution requirement.
17. International experience suggests that contribution requirements are more difficult to meet for people in non-standard working arrangements, new to the workforce, and with relatively long but interrupted contribution histories (e.g. due to caregiving or studying).
18. The Household Labour Force Survey data provides a broad indication of the percentage of people made ineligible by the contribution history requirement (and therefore would not receive a bridging payment), showing a modest disproportionate effect on Māori and a significant disproportionate effect on young people:

	% of people unlikely to meet contribution history
Overall population	12%
Māori	17%
Pacific peoples	13%
Women	13%
15 – 17-year-olds	41%

19. As noted in our previous advice, we consider limiting bridging to employees that are eligible for NZII risks making ineligible employees (especially temporary migrants) relatively more attractive to hire, and to displace.

It would also impact the scheme's implementation and administration

20. Limiting the bridging payment to employees eligible for NZII will also impact on the scheme's implementation and administration, as ACC will need to be able to quickly advise employers as to whether or not a displaced employee is eligible for the scheme, so that they know whether or not they are obliged to pay the bridging payment.
21. This will have implications for the volume and nature of information that the scheme needs to collect at the notification stage (prior to any claim being lodged). It could also lead to timeliness and equity concerns, as eligibility will take longer to determine for some workers than for others, which may impact on the scheme's income smoothing objectives.
22. Limiting the bridging payment to employees eligible for NZII will also have implications for the scheme's penalties, offences, and enforcement regime. It was previously envisaged that the new bridging and notice obligations for employers would be enforced as minimum employment standards and contained in the Employment Relations Act 2000, but a different approach may be necessary if bridging is a NZII scheme specific obligation.

Next steps and timing

23. Officials will update the early draft Cabinet paper following your feedback.

Legislation timeline

24. There is only a brief window to agree the remaining settings to inform legislative drafting for a Bill to be introduced this year.
25. The timeline below sets out the latest possible dates to enable passage of the legislation by July 2023.

<i>Step</i>	<i>Proposed date</i>
Agency consultation on Cabinet paper	26 -30 September
Ministerial consultation	3-10 October
Lodge for Cabinet (assumes going straight to Cabinet)	13 October
Cabinet for final policy decisions	17 October
Near final draft of Bill for New Zealand Bill of Rights Act (BORA) vetting and agency consultation	31 October
Draft LEG paper and draft Bill for Ministerial consultation	14 -18 November
Date by which the Bill will be provided to the Ministry of Justice for BORA assessment	14 November 2022
Draft LEG paper and draft Bill for Ministerial consultation	21-25 November
Lodge for CBC (acting as LEG and assuming sitting)	1 December

<i>Step</i>	<i>Proposed date</i>
Cabinet approval to introduce and introduction to the House	12 December
Select Committee	February-May 2023
Remaining stages of bill and enactment	June to July 2023
Commencement	All parts commenced by 1 April 2025

Further policy work underway

26. There are a number of further areas where second-order policy work is progressing. This includes the role of NZII in responding to economic crises, application to non-standard work, offences, penalties and enforcement, information sharing arrangements, and Treaty of Waitangi provision. We will provide you with advice on these issues in your next fortnightly report on 27 September 2022.
27. Cabinet has given you delegated authority to make policy decisions consistent with the policy intent agreed by Cabinet. The draft Cabinet paper states that you intend to update Cabinet on your decisions on these second-order issues when you seek approval to introduce the Bill to the House.

Attachment

Early draft version of the Cabinet paper entitled *New Zealand Income Insurance: decisions on outstanding policy questions*.

